

<b>Tab 1 CS/SB 626 by CF, Bracy (CO-INTRODUCERS) Torres; (Similar to CS/H 00303) Juvenile Justice</b>							
508726	A	S	RCS	CJ, Bracy	Delete L.16 - 17:	03/16	02:49 PM
<b>Tab 2 SB 640 by Powell (CO-INTRODUCERS) Farmer; (Identical to H 00809) Prosecuting Children as Adults</b>							
656834	A	S	RCS	CJ, Powell	Delete L.134 - 245:	03/16	02:49 PM
<b>Tab 3 CS/SB 932 by CF, Wright; (Similar to H 00141) Minor Time-sharing for Parent Convicted of or Had Adjudication Withheld for a Specified Offense</b>							
<b>Tab 4 CS/SB 936 by MS, Wright (CO-INTRODUCERS) Farmer; (Identical to CS/H 00221) Recovery of Spaceflight Assets</b>							
<b>Tab 5 SB 1608 by Bean; (Similar to CS/H 00009) Protecting Consumers Against Pandemic-related Fraud</b>							
230774	A	S	RCS	CJ, Bean	Delete L.34 - 91:	03/16	02:49 PM
<b>Tab 6 SB 1818 by Burgess; Law Enforcement Officer Training</b>							
171434	A	S	RCS	CJ, Burgess	Delete L.71:	03/16	02:49 PM
<b>Tab 7 SB 1850 by Perry; (Identical to CS/H 00921) Electronic Threats</b>							
<b>Tab 8 SB 1908 by Pizzo; Gain-time for Certain Women Prisoners</b>							
210990	A	S	RCS	CJ, Pizzo	Delete L.32 - 49:	03/16	02:49 PM
440122	AA	S	RCS	CJ, Pizzo	Delete L.24:	03/16	02:49 PM
<b>Tab 9 SB 1970 by Pizzo (CO-INTRODUCERS) Rodriguez; (Identical to H 01513) Law Enforcement Reform</b>							
257714	D	S	RCS	CJ, Pizzo	Delete everything after	03/16	02:49 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Pizzo, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, March 16, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** Toni Jennings Committee Room, 110 Senate Building

**MEMBERS:** Senator Pizzo, Chair; Senator Brandes, Vice Chair; Senators Baxley, Boyd, Gainer, Perry, Powell, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	<b>CS/SB 626</b> Children, Families, and Elder Affairs / Bracy (Similar CS/H 303, Compare H 1451, S 1452)	Juvenile Justice; Creating the "Kaia Rolle Act"; prohibiting a child younger than a certain age from being adjudicated delinquent, arrested, or charged with a violation of law or a delinquent act; providing an exception, etc.  CF 02/16/2021 Temporarily Postponed CF 03/02/2021 Fav/CS CJ 03/16/2021 Fav/CS RC	Fav/CS Yeas 7 Nays 0
2	<b>SB 640</b> Powell (Identical H 809)	Prosecuting Children as Adults; Deleting provisions under which a state attorney must either request a court to transfer and certify children of certain ages who commit specified crimes for prosecution as adults or provide written reasons to the court for not making such a request, or must proceed under certain provisions; revising the circumstances under which a state attorney may file an information in cases that involve children of certain ages who commit certain crimes; providing that children 14 years of age or older, rather than children of any age, who are charged with certain offenses are subject to the jurisdiction of the court until an indictment is returned by the grand jury, etc.  CJ 03/16/2021 Fav/CS ACJ AP	Fav/CS Yeas 7 Nays 0
3	<b>CS/SB 932</b> Children, Families, and Elder Affairs / Wright (Similar H 141)	Minor Time-sharing for Parent Convicted of or Had Adjudication Withheld for a Specified Offense; Prohibiting a court from granting time-sharing with a minor child to a parent under certain circumstances; providing an exception, etc.  CF 03/02/2021 Fav/CS CJ 03/16/2021 Favorable RC	Favorable Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, March 16, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 936</b> Military and Veterans Affairs, Space, and Domestic Security / Wright (Identical CS/H 221)	Recovery of Spaceflight Assets; Providing that a spaceflight entity retains ownership of a spaceflight asset after launch or upon reentry; requiring a person who finds an item reasonably identifiable as a spaceflight asset to report the description and location of the asset to law enforcement; authorizing the owner of a spaceflight asset to enter private property under specified circumstances; prohibiting a person from appropriating a spaceflight asset to his or her own use or refusing to surrender a spaceflight asset to law enforcement or the owner, etc.  MS 03/01/2021 Fav/CS CJ 03/16/2021 Favorable AP	Favorable Yeas 7 Nays 0
5	<b>SB 1608</b> Bean (Similar CS/H 9)	Protecting Consumers Against Pandemic-related Fraud; Defining the term "personal protective equipment"; prohibiting a person from knowingly and willfully making a materially false or misleading statement or disseminating false or misleading information, with the intent to defraud, relating to personal protective equipment under certain circumstances with specified intent; prohibiting a person from knowingly and willfully making a materially false or misleading statement or disseminating false or misleading information, with the intent to defraud, regarding the availability of or access to certain vaccines under certain circumstances with specified intent, etc.  CJ 03/16/2021 Fav/CS JU RC	Fav/CS Yeas 7 Nays 0
6	<b>SB 1818</b> Burgess	Law Enforcement Officer Training; Authorizing the Criminal Justice Standards and Training Commission to incorporate instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques into the course curriculum required for law enforcement officers obtaining initial certification; authorizing the commission to adopt rules authorizing each officer to receive instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques as part of required instruction for continued employment or appointment as an officer, etc.  CJ 03/16/2021 Fav/CS AP RC	Fav/CS Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, March 16, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1850</b> Perry (Identical CS/H 921)	Electronic Threats; Prohibiting a person from sending, posting, or transmitting, or from procuring the sending, posting, or transmission of a written or electronic record when in such record the person makes a threat to kill or to do bodily harm to another person or to conduct a mass shooting or an act of terrorism; providing criminal penalties, etc.  CJ      03/16/2021 Favorable RC	Favorable Yeas 7 Nays 0
8	<b>SB 1908</b> Pizzo	Gain-time for Certain Women Prisoners; Specifying that a pregnant prisoner or a prisoner who is the mother of a child of a certain age sentenced to a state correctional institution is eligible under certain circumstances to earn or receive gain-time in an amount that would cause her sentence to expire, end, or terminate after serving 65 percent of the sentence imposed, etc.  CJ      03/16/2021 Fav/CS ACJ AP	Fav/CS Yeas 7 Nays 0
9	<b>SB 1970</b> Pizzo (Identical H 1513)	Law Enforcement Reform; Requiring the Criminal Justice Standards and Training Commission to adopt rules prohibiting law enforcement officers, correctional officers, or correctional probation officers from using specified techniques; providing an exception; requiring the commission to provide specified data regarding final commission orders to the National Decertification Index; requiring the commission to establish and maintain standards for the instruction of officers in specified subjects in order to build upon and improve police-community relations; revising the minimum aspects of law enforcement that the law enforcement accreditation program must address, etc.  CJ      03/16/2021 Fav/CS ACJ AP	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/CS/SB 626

INTRODUCER: Criminal Justice Committee; Children, Families, and Elder Affairs Committee; and  
Senators Bracy and Torres

SUBJECT: Juvenile Justice

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Cox	CF	<b>Fav/CS</b>
2.	Stokes	Jones	CJ	<b>Fav/CS</b>
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 626, also cited as the “Kaia Rolle Act,” creates s. 985.031, F.S., prohibiting a child younger than 7 years of age from being taken into custody, arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an act occurring before he or she reaches 7 years of age, unless the violation of law is a forcible felony as defined in s. 776.08, F.S.

The bill does not have a fiscal impact on state or local governments. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

**II. Present Situation:**

**Culpability of Children**

There are various age limitations on criminal liability throughout the United States. A recent United Nations study suggests that all member states should set a minimum age of criminal

liability no younger than age 14.<sup>1</sup> Several states have enacted legislation to establish a minimum age at which children may be held criminally liable.<sup>2</sup> Of the states that have passed this legislation, the minimum age ranges from 6 to 12 years of age.<sup>3</sup> For instance, Massachusetts law protects children 12 years of age or younger from criminal liability<sup>4</sup> whereas North Carolina protects children 6 years of age or younger from criminal liability.<sup>5</sup> Fifteen jurisdictions set the minimum age for criminal liability at 10.<sup>6</sup> Some states have adopted exceptions to the minimum age requirement, such as Nevada which protects children who are 10 years of age or younger from criminal liability unless the child between 8 to 10 years old is charged with murder or a sexual offense.<sup>7</sup>

The Model Penal Code (MPC) sets out four kinds of culpability that may be required in any valid criminal conviction,<sup>8</sup> including “purposely,”<sup>9</sup> “knowingly,”<sup>10</sup> “recklessly,”<sup>11</sup> and “negligently.”<sup>12</sup> Culpability requirements are not required for a person to be convicted of a crime that provides for strict liability.<sup>13</sup> Some studies suggest, and precedents from the U.S. Supreme Court have held, that adolescents have a diminished capacity to make consistent choices, engage in self-management, assess risk perception, and calculate future consequences,<sup>14</sup> in other words, to formulate the required culpability.

---

<sup>1</sup> National Juvenile Defender Center, *Minimum Age for Delinquency Adjudication – Multi-jurisdiction Survey*, (January 22, 2020) available at <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/> (last visited March 9, 2021) (hereinafter cited as “NJDC Article”).

<sup>2</sup> NJDC Article; *See also* Interstate Commission for Juveniles, *Age Matrix*, available at <https://www.juvenilecompact.org/age-matrix> (last visited March 9, 2021).

<sup>3</sup> NJDC Article.

<sup>4</sup> Section 119.52, M.G.L.

<sup>5</sup> Section 7B-1501(7), N.C.G.S.

<sup>6</sup> NJDC Article (citing American Samoa, Arkansas, Arizona, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, and Wisconsin).

<sup>7</sup> Section 194.010, N.R.S.

<sup>8</sup> Section 2.02(1), M.P.C.

<sup>9</sup> Section 2.02(2)(a), M.P.C. If the material element of an offense involves the nature of a person’s conduct or a result thereof, a person acts purposely when it is his conscious object to engage in conduct of that nature or to cause such a result, and, if a material element involves the attendant circumstances, he is aware of them or he believes or hopes that they exist. Material element means issues relating to the harm or evil sought to be prevented by the law. MPC s. 1.13(10).

<sup>10</sup> Section 2.02(2)(b), M.P.C. If a material element of an offense involves the nature of a person’s conduct or the attendant circumstances, a person acts knowingly when he is aware that his conduct is of that nature or that such circumstances exist, and, if the material element involves the result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

<sup>11</sup> Section 2.02(2)(c), M.P.C. A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him, his conduct involves a gross deviation from the standard that a law-abiding person would observe in the actor’s situation.

<sup>12</sup> Section 2.02(2)(d), M.P.C. A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the actor’s failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor’s situation.

<sup>13</sup> Section 2.05, M.P.C.

<sup>14</sup> Jenny E. Carroll, *Brain Science and the Theory of Juvenile Mens Rea*, 94 N.C. L. REV. 539, 582 (2016). *See also Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. 460 (2012).

## Offenses Committed by Children

A person may not be tried for a capital crime without presentment or indictment by a grand jury, or for any other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duties in the militia when tried by courts martial.<sup>15</sup>

However, a child may be charged with a violation of law as an act of delinquency instead of a crime and tried without a jury or other requirements applicable to criminal cases.<sup>16</sup> If a child is found to be delinquent, he or she must be disciplined as provided by law.<sup>17</sup>

Under ch. 985, F.S., the terms child, juvenile or youth currently mean any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years.<sup>18</sup> However, Florida law does not presently restrict the age in which a child, juvenile, or youth may be taken into custody, charged with a violation of the law, or adjudicated delinquent.

The Department of Juvenile Justice (DJJ) reports that in FY 2019-20 12,224 youth at least 7 years of age but younger than 15 years of age were referred to the DJJ for charges ranging from murder and kidnapping to armed robbery and sexual battery.<sup>19</sup> The most common of these offenses were misdemeanor assault and battery (19%), burglary (14%), felony aggravated assault and battery (11%), and petit theft (5%).<sup>20</sup> A total of 2,200 youth ages 7 years or older but younger than 15 years of age were admitted to secure detention.<sup>21</sup>

## Florida's Juvenile Justice System

The DJJ is tasked with providing a full continuum of care to youth, including but not limited to, prevention,<sup>22</sup> diversion,<sup>23</sup> detention,<sup>24</sup> probation,<sup>25</sup> and residential commitment.<sup>26, 27</sup>

---

<sup>15</sup> FLA. CONST. art. I, s. 15(a).

<sup>16</sup> FLA. CONST. art. I, s. 15(b).

<sup>17</sup> *Id.*

<sup>18</sup> Section 985.03(7), F.S.

<sup>19</sup> The DJJ, *Agency Analysis for SB 626*, p. 3, February 8, 2021 (On file with the Senate Committee on Criminal Justice) (hereinafter cited as "DJJ Analysis").

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> See s. 985.17, F.S.

<sup>23</sup> Section 985.12, F.S. (providing for civil citation or similar arrest diversion programs).

<sup>24</sup> Chapter 985, Part V., F.S.

<sup>25</sup> Section 985.435, F.S.

<sup>26</sup> Section 985.441, F.S. Sections 985.435(1) and 985.441(1), F.S., provide the court with jurisdiction to sanction children who are adjudicated delinquent to probation or residential commitment.

<sup>27</sup> DJJ Analysis at p. 2.

### ***Prevention Services***

The purpose of prevention services mandated under ch. 985, F.S., is to reduce recidivism, prevent further involvement in the juvenile justice system, protect public safety, and assist with at-risk youth's reentry into the community.<sup>28</sup> As a condition of state funds, the DJJ is required, in part, to design programs providing services to further one or more of the following strategies:

- Design the programs providing such services to further one or more of the following strategies:
  - Encouraging youth to attend and succeed in school.
  - Engaging youth in productive and wholesome activities during non-school hours that build positive character, instill positive values, and enhance educational experiences.
  - Encouraging youth to avoid the use of violence.
  - Assisting youth in acquiring the skills needed to find meaningful employment, which may include assisting the youth in finding a suitable employer.
- Provide demographic information, dates of services, and types of interventions received by each youth.<sup>29</sup>

Prevention serves at-risk children but is not an alternative for an arrest or charges. These services are offered to at-risk children who have not committed a delinquent act and have not been taken into custody or arrested.<sup>30</sup> Children are often referred to prevention programs such as Big Brothers Big Sisters, Boys and Girls Clubs, PACE Center for Girls, and other smaller community provided programs. These children often have displayed early warning signs of negative behaviors such as poor school attendance and academic performance, disciplinary issues, substance abuse, mental health issues, or negative peer associations. Children may be referred to a prevention program by a school counselor, teacher, a clergy member, friend or parent. In FY 2019-20, 990 children under the age of 7 were referred to a prevention program.<sup>31</sup>

### ***Civil Citation and Prearrest Diversion***

A civil citation or prearrest diversion program for misdemeanors must be established in each judicial circuit.<sup>32</sup> However, the Legislature encourages, but does not mandate, that counties, municipalities, and public or private educational institutions participate in a civil citation or similar diversion program.<sup>33</sup>

---

<sup>28</sup> Section 985.17(1), F.S.

<sup>29</sup> Section 985.17(4)(a), F.S.

<sup>30</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>31</sup> *Id.*; The DJJ, Electronic mail from Sam Kerce, Deputy Legislative Affairs Director, RE: Prevention Youth, March 12 2021 (on file with the Senate Committee on Criminal Justice).

<sup>32</sup> Section 985.12(2), F.S.

<sup>33</sup> Section 985.12(1), F.S.

Each circuit civil citation or similar prearrest diversion program must specify:

- The misdemeanor offenses that qualify a juvenile for the program.
- Eligibility criteria of the program.
- The program's implementation and operation.
- The program's requirements.
- A program fee.<sup>34</sup>

Examples of program requirements include community service, restitution, family counseling, substance abuse, and mental health treatment.<sup>35</sup> A civil citation or similar diversion program has been implemented in 65 counties in Florida.<sup>36</sup> Bradford and Hardee counties have not established such a program.<sup>37</sup>

Since 2011, over 76,000 eligible first-time youth offenders who have committed a misdemeanor offense have been offered a civil citation pre-arrest to participate in a diversion program.<sup>38</sup> The DJJ reports that only 2 children under the age of 7 were issued a civil citation for FY 2019-2020.<sup>39</sup>

### ***Taking a Child into Custody***

A child may only be taken into custody of the DJJ under certain circumstances. A child may be taken into custody:

- Pursuant to an order of the circuit court issued under ch. 985, F.S., based on sworn testimony, either before or after a petition is filed.
- For a delinquent act or violation of law.
- By a law enforcement officer for failing to appear at a court hearing after being properly noticed.
- By a law enforcement officer who has probable cause to believe that the child is in violation of the child's probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.<sup>40</sup>

When a child violates the law, the arresting officer may elect to release the child as provided by law to a parent, responsible adult relative, or legal guardian, and issue a notice to appear at a

<sup>34</sup> Section 985.12(2)(b)1. and 2., F.S.

<sup>35</sup> Section 985.12(2)(b)4., F.S. The DJJ, *Overview Look Here to Locate the Civil Citation Provider in your Area*, available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-contact-list.pdf?sfvrsn=2> (last visited March 12, 2021) (listing the civil citation and similar prearrest diversion programs in Florida, and depicting the process for civil citation and similar prearrest diversion programs in a flow chart).

<sup>36</sup> Florida Department of Juvenile Justice, *Civil Citation Implementation by County as of October 2019*, available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-implementation-map-10-2020.pdf?sfvrsn=4> (last visited March 9, 2021).

<sup>37</sup> *Id.*

<sup>38</sup> DJJ Analysis at p. 2. See also The DJJ, *Civil Citation and Similar Diversion Program Best Practices Guide*, (2020), available at <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-and-similar-diversion-program-best-practices-guide-2020.pdf?sfvrsn=2> (last visited March 9, 2021) (explaining statewide utilization for the fiscal year 2019-20 was 59 percent).

<sup>39</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>40</sup> Section 985.101(1)(a)-(d), F.S.

designated court or government office at a specified date and time provided conditions articulated under the rules are met.<sup>41</sup> In FY 2019-20, the DJJ reported that 2 children were charged with a violation of the law, but no petition for delinquency was filed in either case.<sup>42</sup>

### ***Intake and Assessment***

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.<sup>43</sup> Intake and screening services for youth referred to the DJJ are performed at a Juvenile Assessment Center,<sup>44</sup> but must be performed by a DJJ employee.<sup>45</sup> The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child.<sup>46</sup> Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.<sup>47</sup> The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."<sup>48</sup> In certain instances, the DJJ does not have discretion and must place a child in secure detention (e.g., when a child is charged with possessing or discharging a firearm on school property).<sup>49</sup> The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.<sup>50</sup>

### ***Detention of Children***

"Detention care" is "the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order."<sup>51</sup> There are two types of detention care, including:

- "Secure detention" which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention" which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or

---

<sup>41</sup> See Rule 8.045(b), Fla. R. Juv. P. An officer may issue a notice to appear unless: (1) the child fails or refuses to sufficiently identify himself or herself or supply the required information; (2) the child refuses to sign the notice to appear; (3) the officer has reason to believe that the continued liberty of the child constitutes an unreasonable risk of bodily injury to the child or others; (4) the child has no ties with the jurisdiction reasonably sufficient to ensure an appearance or there is substantial risk that the child will refuse to respond to the notice; (5) the officer has any suspicion that the child may be wanted in any jurisdiction; or (6) it appears that the child has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

<sup>42</sup> The DJJ, Electronic mail from Rachel Moscoso, Legislative Affairs Director, RE: Agency Bill Analysis for SB 626, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>43</sup> A referral is similar to an arrest in the adult criminal justice system. See the DJJ, *Probation and Community Intervention, Overview*, available at <http://www.djj.state.fl.us/services/probation> (last visited March 9, 2021).

<sup>44</sup> Section 985.135(4), F.S.

<sup>45</sup> Section 985.14(2), F.S.

<sup>46</sup> *Id.* The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.

<sup>47</sup> Section 985.25(1), F.S.

<sup>48</sup> Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.

<sup>49</sup> Section 985.25(1)(b), F.S.

<sup>50</sup> Section 985.145(1), F.S.

<sup>51</sup> Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.<sup>52</sup>

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care only under certain circumstances.<sup>53</sup> Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court.<sup>54</sup>

### ***Probation or Postcommitment Probation (Probation)***

After a child is found to have committed a delinquent act, the court must hold a disposition hearing.<sup>55</sup> At the disposition hearing, the court must determine whether the child will be committed to the DJJ or receive community based sanctions. If the court determines not to commit the child to the DJJ, the court must determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to:

- Participation in substance abuse treatment.
- A day-treatment probation program.
- Restitution in money or in kind.
- A curfew.
- Revocation or suspension of the driver license of the child.
- Community service.
- Appropriate educational programs as determined by the district school board.<sup>56</sup>

A probation program for a child adjudicated delinquent must include a penalty component,<sup>57</sup> and a rehabilitative program component.<sup>58</sup> A probation program may also include an alternative

---

<sup>52</sup> *Id.*

<sup>53</sup> Section 985.255(1), F.S. Provides that a court may order continued detention care when: (1) the result of the risk assessment instrument pursuant to s. 985.245, F.S., indicates secure or supervised release detention; (2) the child is alleged to be an escapee from a residential commitment program; or an absconder from a nonresidential commitment program, a probation program, or conditional release supervision; or is alleged to have escaped while being lawfully transported to or from release supervision; or is alleged to have escaped while being lawfully transported to or from a residential commitment program; and (3) the child is detained on a judicial order for failure to appear, after proper notice for an adjudicatory hearing on the same case, regardless of the results of the risk assessment; or at two or more court hearings of any nature on the same case regardless of the results of the risk assessment.

<sup>54</sup> Section 985.26, F.S. The court may extend the length of detention for an additional 9 days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case. Additionally, a prolific juvenile offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order. Section 985.255, F.S., provides that a “prolific juvenile offender” means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

<sup>55</sup> Section 985.433, F.S.

<sup>56</sup> Section 985.433(8), F.S.

<sup>57</sup> Section 985.435(2), F.S. A penalty component may include restitution, community service, a curfew, revocation or suspension of the driver license, or other nonresidential punishment appropriate to the offense.

<sup>58</sup> Section 985.435(3), F.S. A rehabilitative component may include a substance abuse treatment program, or a school or career and technical education program.

consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new law violations.<sup>59</sup>

### ***Residential Commitment***

The court may commit a child who has been adjudicated delinquent to: a licensed child-caring agency willing to receive the child or to the DJJ.<sup>60</sup> Commitment programs vary by “restrictiveness level,” which means “the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children.”<sup>61</sup> Levels of commitment are:

- Minimum-risk nonresidential where children remain in their community and participate at least 5 days a week in day treatment;
- Nonsecure residential where children are in a residential program and have supervised access to their community;
- High-risk residential where children are not allowed access to their community with limited exception; and
- Maximum-risk residential including juvenile correctional facilities or juvenile prisons that do not allow the children to have any access to their community.<sup>62</sup>

If the child’s offense is a misdemeanor, or a technical violation of misdemeanor probation, the court may not commit the child to a restrictiveness level other than minimum-risk nonresidential, except in certain circumstances.<sup>63</sup>

### **Forcible Felony Offenses**

Section 776.08, F.S., defines “forcible felony” to mean:

- Treason;<sup>64</sup>
- Murder;<sup>65</sup>
- Manslaughter;<sup>66</sup>
- Sexual battery;<sup>67</sup>
- Carjacking;<sup>68</sup>

<sup>59</sup> Section 985.435(4), F.S. The alternative consequence component is designed to provide swift and appropriate consequences to any noncompliance with technical conditions of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation must be detailed in the disposition order.

<sup>60</sup> Section 985.441(1), F.S.

<sup>61</sup> Section 985.03(44), F.S.

<sup>62</sup> Section 985.03(44), F.S. Florida law caps the number of beds at maximum-risk residential facilities at 90 beds each.

<sup>63</sup> Section 985.441(2), F.S. The court may commit a child with a misdemeanor or a technical violation of a misdemeanor offense if: (1) the child has previously been adjudicated or had adjudication withheld for a felony; (2) the child has previously been adjudicated or had adjudication withheld for three or more misdemeanor offenses within the previous 18 months; (3) the child is before the court for disposition for a violation of ss. 800.03, 806.031, or 828.12, F.S.; or (4) the court makes written findings by preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement.

<sup>64</sup> Section 876.32, F.S.

<sup>65</sup> Section 782.04, F.S.

<sup>66</sup> Section 782.07(1), F.S.

<sup>67</sup> Section 794.011, F.S.

<sup>68</sup> Section 812.133, F.S.



- Home-invasion robbery;<sup>69</sup>
- Robbery;<sup>70</sup>
- Burglary;<sup>71</sup>
- Arson;<sup>72</sup>
- Kidnapping;<sup>73</sup>
- Aggravated assault;<sup>74</sup>
- Aggravated battery;<sup>75</sup>
- Aggravated stalking;<sup>76</sup>
- Aircraft piracy;<sup>77</sup>
- Unlawful throwing, placing, or discharging of a destructive device or bomb;<sup>78</sup> and
- Any other felony which involves the use or threat of physical force or violence against any individual.

### III. Effect of Proposed Changes:

The bill, also cited as the “Kaia Rolle Act,” creates s. 985.031, F.S., prohibiting a child younger than 7 years of age from being taken into custody, arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an act occurring before he or she reaches 7 years of age, unless the violation of law is a forcible felony as defined in s. 776.08, F.S.

The bill is effective July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill prohibits a child under the age of 7 from being arrested, charged with a violation of the law, or adjudicated delinquent except in specified circumstances which may result in indeterminate reduction of local fund expenditures for costs relating to criminal prosecution and confinement if such child would have otherwise been detained or charged with a crime. However, these provisions relate to the defense, prosecution, or punishment of criminal offenses, and criminal law and are therefore exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

#### B. Public Records/Open Meetings Issues:

None.

---

<sup>69</sup> Section 812.135, F.S.

<sup>70</sup> Section 812.13, F.S.

<sup>71</sup> Section 810.02, F.S.

<sup>72</sup> Section 806.01, F.S.

<sup>73</sup> Section 787.01, F.S.

<sup>74</sup> Section 784.021, F.S.

<sup>75</sup> Section 784.045, F.S.

<sup>76</sup> Section 784.048, F.S.

<sup>77</sup> Section 860.16, F.S.

<sup>78</sup> Section 790.1615, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments.

The Florida Department of Law Enforcement will be required to amend basic recruit and advanced training course curriculums in relation to the new custody and detention laws which may be incorporated in annual training review courses.<sup>79</sup>

The Justice Administrative Commission reports that the bill will have no policy, workload, or fiscal impacts on the agency.<sup>80</sup>

The DJJ does not indicate a fiscal impact but notes that while this bill would divert youth from the criminal justice system, it is not clear what services a youth may receive in place.<sup>81</sup>

**VI. Technical Deficiencies:**

None.

---

<sup>79</sup> The Florida Department of Law Enforcement, *Agency Analysis for 626*, p. 5, January 20, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>80</sup> The Justice Administrative Commission, *Memorandum No. 13-21, Exec*, p. 1, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>81</sup> The Department of Juvenile Justice, *Agency Analysis for 626*, p. 5, February 8, 2021 (on file with the Senate Committee on Criminal Justice).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 985.031 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Criminal Justice on March 16, 2021:**

The committee substitute adds the language, “taken into custody,” to be consistent with the terminology used in ch. 985, F.S., regarding children.

**CS by Children, Families, and Elder Affairs on March 2, 2021:**

The committee substitute provides an:

- Age limitation related to arresting, charging, or adjudicating delinquent a child; and
- Exception for if the child is alleged to have committed a specified offense.

- B. **Amendments:**

None.



508726

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Bracy) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 16 - 17  
and insert:  
taken into custody, arrested, charged, or adjudicated delinquent  
for a delinquent act or violation of law based on an act  
occurring before he

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:



508726

11       Delete lines 5 - 6  
12 and insert:  
13       taken into custody, arrested, charged, or adjudicated  
14       delinquent for a delinquent act or violation of law;  
15       providing an

By the Committee on Children, Families, and Elder Affairs; and  
Senators Bracy and Torres

586-02352-21

2021626c1

A bill to be entitled

An act relating to juvenile justice; creating s.  
985.031, F.S.; providing a short title; prohibiting a  
child younger than a certain age from being  
adjudicated delinquent, arrested, or charged with a  
violation of law or a delinquent act; providing an  
exception; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 985.031, Florida Statutes, is created to  
read:

985.031 Age limitation; exception.—

(1) This section may be cited as the "Kaia Rolle Act."

(2) A child younger than 7 years of age may not be  
adjudicated delinquent, arrested, or charged with a violation of  
law or a delinquent act on the basis of acts occurring before he  
or she reaches 7 years of age, unless the violation of law is a  
forcible felony as defined in s. 776.08.

Section 2. This act shall take effect July 1, 2021.



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Juvenile Justice**

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 626
<b>BILL TITLE:</b>	Juvenile Justice
<b>BILL SPONSOR:</b>	Senator Bracy
<b>EFFECTIVE DATE:</b>	July 1, 2021

### COMMITTEES OF REFERENCE

1) Children, Families, and Elder Affairs
2) Criminal Justice
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Children, Families, and Elder Affairs
---------------------------------------

### SIMILAR BILLS

<b>BILL NUMBER:</b>	HB 303
<b>SPONSOR:</b>	Representative Williams

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	SB 578
<b>SPONSOR:</b>	Senator Bracy
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	Died in committee

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### Is this bill part of an agency package?

No

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	2/8/2021
<b>LEAD AGENCY ANALYST:</b>	Sam Kerce, Deputy Legislative Affairs Director, 850-717-2717
<b>ADDITIONAL ANALYST(S):</b>	Dr. Sherry Jackson, Director of Research and Data Integrity
<b>LEGAL ANALYST:</b>	John Mila, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Click or tap here to enter text.

---

## POLICY ANALYSIS

---

### 1. EXECUTIVE SUMMARY

The bill creates the “Kaia Rolle Act” which prohibits the arrest, adjudication, or charge of a youth who is younger than 7 years of age. The bill also limits the circumstances where a youth under 15 may be taken into custody. In addition, the bill limits when a youth may be taken into custody while at school.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

##### Definition of a Child

Section 985.03, Florida Statutes, defines a child, juvenile, or youth as any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior the time that person reached the age of 18 years. The Department does not arrest nor charge youth with a crime, but instead interacts with youth once law enforcement, the state courts, and statute provides. Services that the Department provides for youth span the full continuum of care including prevention, diversion, detention, probation, and residential commitment.

For many first time offenders, law enforcement officers will offer a civil citation. Since 2011 over 76,000 youth have been diverted from arrest through the use of civil citation and other similar prearrest diversion programs. These programs allow first-time misdemeanors to be diverted from entering the criminal justice system and instead the youth is assessed and assigned alternatives to arrest such as community service, anger management, or mental health counseling. If a youth is not eligible for a civil citation then the youth may be taken into custody.

##### Taking Custody of a Child

Currently, when a law enforcement officer decides to arrest a youth, they can either provide a youth a Notice to Appear or book them and take them to be screened. There is no state law limiting the age or location a child can be arrested. A youth may be arrested and taken into custody in the community or at school. However, some individual law enforcement agencies have local policies on how to handle the arrest of a younger youth, such as calling to receive permission from a supervising officer.

Notice to Appear is a process where a law enforcement officer gives a youth a formal ticket in the field that requires them to appear in court to handle their charges. These are normally given to youth that do not present a harm to public safety and who are likely attend their court hearing without having to be detained.

A law enforcement officer may also formally arrest and book a youth which will result in a screening being completed known as the Detention Risk Assessment Instrument (DRAI). The DRAI is used to assess if a youth should be held in secure detention after they are arrested or if they should be released back into the community. The main rational used when deciding whether to release a youth back into the community is whether they pose a risk to public safety. The DRAI takes into consideration a youth who is under the age of 12 when assigning a score to determine whether they should be released.

Once a trained DRAI screener completes their analysis and the score is totaled, one of the three options will be recommended for the youth:

- **Secure Detention** as defined in s. 985.03(18), F.S., a youth will be held in a juvenile secure detention center that serves that county.
- **Supervised Release** as defined in s. 985.03(18), F.S., would allow for a youth to be released on home detention pending their adjudicatory hearing. However, additional supervision overlays such as electronic monitoring, day and evening reporting, and nonsecure shelters can be added. Additional requirements may be imposed by the court.
- **Release** is the least restrictive option and would allow for a youth to be released back to their parent or guardian while they await their court proceedings.

During FY 2019-20, 2 youth who were under the age of seven when referred to the Department. The offenses included one misdemeanor assault/battery and one felony vandalism; neither youth was admitted to secure detention.



In FY 2019-2020, there were 12,114 referrals for youth age 7 years or older but younger than 15 years of age to the Department for charges ranging from murder and kidnapping to armed robbery and sexual battery. The most common new law offenses were Misdemeanor Assault and Battery (19%), Burglary (14%), Felony Aggravated Assault/Battery (11%), and Petit Theft (5%). A total of 2,200 youth ages 7 years or older but younger than 15 years of age were admitted to secure detention.

In FY 2019-20, a total of 5,298 school related offenses were committed by juveniles and charged as felonies or misdemeanors. Some of the most common offenses were for misdemeanor assault/battery (1,199), felony aggravated assault/battery (936), misdemeanor disorderly conduct (796), and felony drug offenses (465).

## **2. EFFECT OF THE BILL:**

### Section 1.

The bill amends s. 985.03, F.S., to change the definition of a child, juvenile, or youth, for use of Chapter 985 – Juvenile Justice, to any person 7 years of age or older but younger than 18 years of age who is alleged to have committed a violation of law occurring after the person reached 7 years of age or older and before that person reached 18 years of age.

### Section 2.

Section 985.031, F.S., is created to state that a person who is under the age of 7 is not to be adjudicated delinquent, arrested, or charged with a violation of law or a delinquent act. An exception is made if the child commits a forcible felony as defined in s. 776.08, F.S.

### Section 3

Section 985.101(1), F.S., is amended to put new limitations on when a youth under the age of 15 years old may be taken into custody. This is done through the creation of subsection 985.101(5), F.S., which allows for a youth between the ages of 7 and 14 to be taken into custody or arrested only if:

- (1) they failed to appear at a court hearing after being properly notified, or
- (2) law enforcement has probable cause to believe the child has absconded from a nonresidential commitment or escaped from a residential commitment program, or
- (3) law enforcement has probable cause to believe that detention is necessary to prevent an imminent threat of seriously bodily harm to another individual.

The limitations on taking a youth into custody outlined in section 3 of the bill, could be problematic. For instance, a 14-year-old who commits a felony robbery may not be considered an ***imminent threat*** and not be able to be taken into custody. The bill does not give law enforcement the authority to take custody of a youth who may currently be on probation for a previous crime and then commits a new law violation or violates the conditions of their probation.

The bill also places limitations on when a child enrolled in primary or secondary school may be arrested or taken into custody while they are at school to youth who meet at least one of the following:

- (1) they failed to appear at a court hearing after being properly notified, or
- (2) law enforcement has probable cause to believe that detention is necessary to prevent an imminent threat of seriously bodily harm to another individual.

### Section 4.

Section 985.24(4), F.S., requires that a child who is taken into custody pursuant to a summons, arrest warrant, or circuit court order that does not explicitly require detention, must be treated in the same manner as stated in the newly created statute s. 985.101(1)(b) as explained in section 2 of the bill.

### Section 5.

The bill reenacts s. 316.003(11), F.S.

### Section 6

The bill reenacts s. 960.001(1)(b), F.S.

### Section 7

The bill reenacts s. 985.439(2), F.S.

#### Section 8

The bill reenacts s. 985.25(1), F.S.

#### Section 9

The bill provides for an effective date of July 1, 2021.

### **3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒**

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

### **4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

### **5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒**

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

### **6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒**

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

## FISCAL ANALYSIS

### 1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Unknown, while this bill would divert youth from the criminal justice system, it is not clear what services a youth may receive in place.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

### 2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Unknown, while this bill would divert youth from the criminal justice system, it is not clear what services a youth may receive in place.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

### 3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Unknown, while this bill would divert youth from the criminal justice system, it is not clear what services a youth may receive in place.
Other:	Click or tap here to enter text.

### 4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

## TECHNOLOGY IMPACT

**1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?**
Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

Click or tap here to enter text.

**FEDERAL IMPACT**
**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?**
Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

Click or tap here to enter text.

**ADDITIONAL COMMENTS**

Click or tap here to enter text.

**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:	
Lines 48 and 52	The term "child" is misused. A person under age 7 is, by definition, not a child (see lines 38-43). The word "child" on line 48 should be replaced with "person." The word "child" on line 52 should be replaced with the phrase "person younger than 7 years of age."
Lines 103-05	The provision allowing law enforcement to arrest a 7-14 year-old in or out of a school setting upon " <i>probable cause to believe that detention is necessary to prevent an imminent threat of serious bodily harm to another individual.</i> " The standard for probable cause is well articulated through legal interpretation, however probable cause as it relates to an "imminent threat or serious bodily harm to another individual" will be difficult to interpret.
Lines 115-17	Additionally, a different standard is placed upon those under 7 years of age and those 7 years of age to 14 years of age in regard to forcible felonies. A person under 7 is able to be arrested for a forcible felony as there is no reference to forcible felonies for youth 7-14 years of age.
Line 110	Primary or secondary school is not defined in statute.

**From:** Moscoso, Rachel  
**To:** [Moody, Jacqueline](#)  
**Cc:** [Kerce, Sam](#)  
**Subject:** RE: Agency Bill Analysis for SB 626  
**Date:** Monday, February 8, 2021 4:54:59 PM

---

Jackie,

Per your request, for FY 2019-20 regarding the number of children **under the age of 7**:

1. received a civil citation; 2 youth under the age of 7 were issued a civil citation.
2. were referred a prevention program; 990 were **admitted** to a prevention program. Youth are not typically referred to prevention services in the traditional way that a youth is referred to a civil citation program. Prevention serves at-risk youth but it is not an alternative for an arrest or charges. This because the youth participating in prevention services are not there because of any kind of delinquent act or charge.
3. participated in diversion programs; None. Diversion in this case was taken to mean a youth who committed a criminal act and was then adjudicated by a judge to participate in a diversion program.
4. were charged with a violation of the law. 2 youth, both were non-filed.

We should be able to send you our official analysis on this bill early tomorrow. Please let me know if you have additional questions.

Best,

Rachel Moscoso  
Legislative Affairs Director  
Florida Department of Juvenile Justice  
Office: (850) 717-2716  
Cell: (850) 322-9572  
[Rachel.Moscoso@djj.state.fl.us](mailto:Rachel.Moscoso@djj.state.fl.us)

---

**From:** Moody, Jacqueline <Moody.Jacqueline@flsenate.gov>  
**Sent:** Monday, February 8, 2021 11:24 AM  
**To:** Moscoso, Rachel <Rachel.Moscoso@djj.state.fl.us>  
**Cc:** Kerce, Sam <Sam.Kerce@djj.state.fl.us>  
**Subject:** RE: Agency Bill Analysis for SB 626

Thanks, Rachel.

It would be very helpful if you could send us some information in the meantime. Specifically, please

confirm recent statistics (i.e. for the year 2020, if available) regarding the number of children who are 7 years of age or younger that:

1. received a civil citation;
2. were referred to prevention services;
3. participated in diversion programs; and
4. were charged with a violation of the law.

Many thanks for your help.

Kind regards

Jackie

---

**From:** Moscoso, Rachel <[Rachel.Moscoso@djj.state.fl.us](mailto:Rachel.Moscoso@djj.state.fl.us)>

**Sent:** Monday, February 8, 2021 11:11 AM

**To:** Moody, Jacqueline <[Moody.Jacqueline@flsenate.gov](mailto:Moody.Jacqueline@flsenate.gov)>

**Cc:** Kerce, Sam <[Sam.Kerce@djj.state.fl.us](mailto:Sam.Kerce@djj.state.fl.us)>

**Subject:** RE: Agency Bill Analysis for SB 626

Hi Jackie,

Good morning. We are wrapping up our analysis of this bill now and will have it over to you as soon as possible this week.

Thank you,

Rachel Moscoso  
Legislative Affairs Director  
Florida Department of Juvenile Justice  
Office: (850) 717-2716  
Cell: (850) 322-9572  
[Rachel.Moscoso@djj.state.fl.us](mailto:Rachel.Moscoso@djj.state.fl.us)

---

**From:** Moody, Jacqueline <[Moody.Jacqueline@flsenate.gov](mailto:Moody.Jacqueline@flsenate.gov)>

**Sent:** Monday, February 8, 2021 11:03 AM

**To:** Moscoso, Rachel <[Rachel.Moscoso@djj.state.fl.us](mailto:Rachel.Moscoso@djj.state.fl.us)>

**Subject:** Agency Bill Analysis for SB 626

Dear Rachel

My name is Jackie Moody. I recently began working for the Florida Senate on the Children, Families and Elder Affairs Committee. It is a pleasure to meet you via email in the first instance.

I am preparing a bill analysis for Senate Bill 626, and am writing to request DJJ's analysis for it. I understand that DJJ prepared one for a similar bill last year (Senate Bill 578), and am hoping that we receive one soon for this bill.

I would be grateful for your quick response and assistance with this issue.

Kind regards  
Jackie

Jacqueline Moody  
Senior Attorney  
Committee on Children, Families, and Elder Affairs  
(850) 487-5340

---

**From:** Kerce, Sam <Sam.Kerce@djj.state.fl.us>  
**Sent:** Friday, March 12, 2021 4:22 PM  
**To:** Stokes, Amanda <Stokes.Amanda@flsenate.gov>  
**Subject:** Prevention Youth

Hey Amanda,

Please see below.

Youth who are referred to prevention programs, such as Big Brothers Big Sisters, Boys and Girls Clubs, PACE Center for Girls, and other smaller community provided programs may have displayed early warning signs of negative behaviors such as poor school attendance and academic performance, disciplinary issues, substance abuse and /or mental health issues or negative peer associations. Youth may be referred by their school counselor, teacher, a clergy member, friend, or a parent. Youth are typically those considered at-risk and have not committed a delinquent act.





# 2021 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
<b>BILL NUMBER:</b>	SB 626
<b>BILL TITLE:</b>	Juvenile Justice
<b>BILL SPONSOR:</b>	Senator Bracy
<b>EFFECTIVE DATE:</b>	July 1, 2021

COMMITTEES OF REFERENCE
1)
2)
3)
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
<b>BILL NUMBER:</b>	HB 303
<b>SPONSOR:</b>	Williams

PREVIOUS LEGISLATION	
<b>BILL NUMBER:</b>	SB 578
<b>SPONSOR:</b>	Senator Bracy
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	Died in committee

IDENTICAL BILLS	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
<b>DATE OF ANALYSIS:</b>	January 20, 2021
<b>LEAD AGENCY ANALYST:</b>	Chris Bufano
<b>ADDITIONAL ANALYST(S):</b>	Becky Bezemek, Ashley Pennington
<b>LEGAL ANALYST:</b>	Jim Martin
<b>FISCAL ANALYST:</b>	Cynthia Barr

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

The bill revises definitions, requirements and limitations related to persons under the age of 18 charged with criminal offense; prohibiting children younger the age of 7 from being adjudicated delinquent, arrested or charged with any crime with the exception of a Forceable Felony under Section 776.08, FS; authorizing children of at least a specified age, rather than of any age, to be taken into custody under certain circumstances; requiring that children who are taken into custody pursuant to certain circuit court orders be treated in a specified manner and be detained only pursuant to specified findings.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently child, juvenile or youth means any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached 18 years of age. There is currently no statutory threshold age of mental culpability for criminal intent and no threshold age minimum for taking a child into custody.
2. **EFFECT OF THE BILL:** Defines child, juvenile or youth to be any person 7 years of age or older but younger than 18 years of age; establishes that no person under the age of 7 possesses the mental culpability required to commit criminal offenses; prohibits arresting, charging or adjudicating any person under the age of 7 for any crime; amends s. 985.101(1), FS, requiring that a child 15 years of age or older may only be taken into custody under certain circumstances; creates s. 985.101(5), FS, limiting the arrest of a child 7 years of age or older but less than 14 years of age only under the follow circumstances: (a) by a law enforcement officer for failing to appear at a court hearing after being properly noticed, (b) by a law enforcement officer who has probable cause to believe that the child has absconded from a nonresidential commitment or has escaped from a residential commitment or (c) by a law enforcement officer who has probable cause to believe that detention is necessary to prevent an imminent threat of serious bodily harm to another individual; limiting the circumstances in which a child (as defined in the current bill) enrolled at a primary or secondary school may be taken into custody at the school to: (a) by a law enforcement officer for failing to appear at a court hearing after being properly noticed or (b) by a law enforcement officer who has probable cause to believe that detention is necessary to prevent an imminent threat of serious bodily harm to another individual; requires that any child taken into custody that does not explicitly require detention, must be treated in the same manner as a child taken into custody under s. 985.101(1)(b), FS, and may be detained only pursuant to a finding under subsection (1).
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	
Date Due:	

Bill Section Number:	
----------------------	--

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☒**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☐ N ☒**

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☒**

Revenues:	
Expenditures:	

Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

## TECHNOLOGY IMPACT

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒**

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

## FEDERAL IMPACT

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
--	--

## ADDITIONAL COMMENTS

- The bill will protect all children under the age of 7 from being arrested, charged or sentenced for any crime they commit. This bill effectively provides immunity from prosecution to all those under the age of 7, except in the case of a Forceable Felony under s. 776.08, FS.
- The bill will restrict law enforcement from arresting any child between the ages of 7 to 14 for any new crime committed absent an imminent threat of serious bodily harm to another individual.
- Under this bill, a minor will be also be immune from arrest while on his or her primary or secondary school grounds, absent belief that the child is a current imminent threat of serious bodily harm to another individual.

- The bill will require the Criminal Justice Standards and Training Commission to amend basic recruit and advanced training course curriculums as they relate to juvenile arrest and detainment procedures. This could be implemented as part annual curriculum updates.



THE STATE OF FLORIDA  
**JUSTICE ADMINISTRATIVE COMMISSION**

227 North Bronough Street, Suite 2100  
Tallahassee, Florida 32301



**Alton L. "Rip" Colvin, Jr.**  
Executive Director

(850) 488-2415  
FAX (850) 488-8944

[www.justiceadmin.org](http://www.justiceadmin.org)

**COMMISSIONERS**

**Diamond R. Litty, Chair**  
*Public Defender, 19<sup>th</sup> Circuit*  
**Kathleen A. Smith**  
*Public Defender, 20<sup>th</sup> Circuit*  
**Brian Haas**  
*State Attorney, 10<sup>th</sup> Circuit*  
**Jack Campbell**  
*State Attorney, 2<sup>nd</sup> Circuit*

**MEMORANDUM NO. 13-21, EXEC**

TO: The Florida Senate

FROM: Alton L. "Rip" Colvin, Jr.

SUBJECT: Bill Analysis Response for Senate Bill [0626](#)

DATE: February 8, 2021

---

Thank you for the opportunity to respond to your recent bill analysis request for Senate Bill 0626 on behalf of the Justice Administrative Commission (JAC).

Senate Bill 0626, filed by Senator Randolph Bracy on January 13, 2021, is an "act relating to juvenile justice." This act takes effect July 1, 2021.

Upon review, JAC finds that Senate Bill 0626 will have no policy, workload, or fiscal impacts to our agency. Please consider this reply as responsive to your request on behalf of JAC "proper" and not the judicial-related offices (JROs) administratively served by JAC. JROs include the offices of State Attorney, Public Defender, Criminal Conflict and Civil Regional Counsel, Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Program. Please note that the JROs will be provided a copy of this analysis as a courtesy.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03/16/21

Meeting Date

626

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Ave

Phone 850-339-0075

Street

Tallahassee

FL

32301

Email idelgado@flaccb.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/2021

Meeting Date

626

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee, FL

City

State

Zip

Email fctep@yalee.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-2021

Meeting Date

626

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Jacqueline Miner

Job Title Student

Address 800 Basin St

Street

Phone 813-943-5612

Tallahassee

City

FL

State

32304

Zip

Email Jackieminer12@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

**APPEARANCE RECORD**

3/16/21

Meeting Date

626

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

Street

Tallahassee

FL

32303

Email carrie.boyd@splcenter.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/2021

Meeting Date

626

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title \_\_\_\_\_

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

Email TcgLobby@aol.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

626

*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

*Street*

Tallahassee

FL

32308

Email Greg@WaypointStrat.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21  
Meeting Date

626  
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Kristellys Estanga

Job Title Aide to City Commissioner

Address 406 W 8th Ave  
Street

Phone 9048011910

Tallahassee FL 32303  
City State Zip

Email Kristellys@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

T 12:30

CRIMINAL J

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21  
Meeting Date

626  
Bill Number (if applicable)

Topic JUVENILE JUSTICE

Amendment Barcode (if applicable)

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE  
Street

Phone 8503223317

TALLY FL 32303  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing LEAGUE WOMEN VOTERS FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/16/21

Meeting Date

626

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

Phone 850-488-6850

Street

Tallahassee

Fl

32301

Email ndamiels@flpda.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

Cr. Justice  
12:30

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21  
Meeting Date

624  
Bill Number (if applicable)

Topic Juvenile Justice  
Name Barbara DeVane

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address 625 E Brevard ST  
Street  
Tallahassee FL 32308  
City State Zip

Phone 251-4280  
Email barbaradevane1@  
yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

☒ Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21  
Meeting Date

626  
Bill Number (if applicable)

Topic Kaia Rolle Act

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

CS/SB 1026

Bill Number (if applicable)

Topic Advent children, families & elder affairs

Amendment Barcode (if applicable)

Name Laurette Philipson

Job Title Ø

Address 7240 Westwind Dr

Street

POIT Richey FL 34108

City

State

Zip

352-533-

Phone 9202

Email advocate.philipson@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

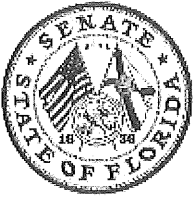
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Ethics and Elections  
Rules  
Transportation

### SELECT COMMITTEE:

Select Committee on Pandemic  
Preparedness and Response, *Vice Chair*

### SENATOR RANDOLPH BRACY

11th District

March 10, 2021

The Honorable Jason W.B. Pizzo  
Chairman, Committee on Criminal Justice  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Pizzo:

I write to respectfully request that the following bills be placed on the agenda of the Senate Criminal Justice Committee.

- **CS/SB 626 – Juvenile Justice:** this bill creates the *Kaia Rolle Act* which prohibits children younger than 7 years old from being arrested, charged, or adjudicated delinquent except for any child who commits a forcible felony.
- **SB 482 – Criminal Sentencing:** this bill brings about important reforms. It will divert low risk offenders from prison sentences, reducing recidivism, and it will restore uniformity and fairness in sentencing throughout the state.

Your consideration to this agenda request is highly appreciated. Please reach out if you have any questions or concerns regarding the legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Randolph Bracy".

Senator Randolph Bracy  
District 11

### REPLY TO:

- 6965 Piazza Grande Avenue, Suite 302, Orlando, Florida 32835 (407) 297-2045 FAX: (888) 263-3814
- 213 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

WILTON SIMPSON  
President of the Senate

AARON BEAN  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 640

INTRODUCER: Criminal Justice Committee and Senators Powell and Farmer

SUBJECT: Prosecuting Children as Adults

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	<b>Fav/CS</b>
2.			ACJ	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 640 amends s. 985.556, F.S., to remove involuntary mandatory waiver from the ways in which a child may be transferred to adult court. Section 985.556(3), F.S., relating to involuntary mandatory waiver, provides under what circumstances a state attorney must request the court to transfer a child to adult court.

This bill amends s. 985.557, F.S., to remove the discretionary direct filing of a child 14 or 15 years of age. Additionally, this bill provides that the state attorney may only direct file an information on a child 16 or 17 years of age when the offense committed was a forcible felony, as defined in s. 776.08, F.S. The bill renames “discretionary direct file” to “discretionary prosecution of children as adults.”

This bill amends s. 985.56, F.S., providing that only a child 14 years of age or older who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the juvenile court unless and until an indictment on the charge is returned by the grand jury. Additionally, the bill provides that a child who commits an offense for which he or she may be indicted and who has a pending competency hearing or previously has been found incompetent and has not been restored may not be transferred to adult court until competency is restored. A pending competency hearing or finding of incompetency tolls the time limitation for the adjudicatory hearing.

Further, this bill amends s. 985.56, F.S., removing the requirement that a child who has committed an offense punishable by death or by life imprisonment be sentenced as an adult pursuant to s. 985.565, F.S. Under this bill, a child who has committed such an offense may be sentenced as an adult or juvenile.

The bill amends s. 985.565, F.S., to give the court discretion to sentence a child who has been indicted as an adult or juvenile. Additionally, the bill amends this section to make conforming changes.

The bill amends s. 985.03 F.S., to include or remove the appropriate cross-references.

The bill reenacts ss. 985.265, 985.15, and 985.26, F.S., for purposes of incorporating the amendments made by this act.

This bill has an indeterminate fiscal impact on the Department of Juvenile Justice (DJJ). See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2021.

## **II. Present Situation:**

### **Detention of Children in Florida**

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care under certain circumstances.<sup>1</sup> “Detention care” means “the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order.”<sup>2</sup> There are two types of detention care, including:

- “Secure detention” which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- “Supervised release detention” which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.<sup>3</sup>

Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional 9 days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for

---

<sup>1</sup> Section 985.255(1), F.S.

<sup>2</sup> Section 985.03(18), F.S.

<sup>3</sup> *Id.*

the prosecution or defense of the case.<sup>4</sup> Additionally, a prolific juvenile<sup>5</sup> offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order.<sup>6</sup>

### ***Cost Sharing of Detention Care***

Cost sharing is governed by s. 985.6865, F.S., which provides, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained<sup>7</sup> and that has dismissed any action or claim described in s. 985.6865(2), F.S.,<sup>8</sup> must pay 50 percent of the total shared detention cost.<sup>9</sup>

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for children residing in the non-fiscally constrained county for the most recently completed 12-month period by the total number of detention days for children in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.<sup>10</sup>

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.<sup>11</sup> Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.<sup>12</sup> The DJJ will determine quarterly whether counties are complying with this section.<sup>13</sup>

The State must pay all costs of detention care for children:

- Residing in a fiscally constrained county.
- Residing out of State.
- Housed in state detention centers from counties that provide their own detention care for children.<sup>14</sup>

---

<sup>4</sup> Section 985.26, F.S.

<sup>5</sup> Section 985.255, F.S., provides that a "prolific juvenile offender" means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

<sup>6</sup> Section 985.26, F.S.

<sup>7</sup> Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

<sup>8</sup> Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Section 985.6865(1) and (2), F.S.

<sup>9</sup> Section 985.6865(4), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 985.6865(6), F.S.

<sup>12</sup> Section 985.6865(7), F.S.

<sup>13</sup> Section 985.6865(8), F.S.

<sup>14</sup> Section 985.6865(5), F.S.

## **Transfer of a Child to Adult Court**

There are three methods of transferring a child to adult court for prosecution: judicial waiver, indictment,<sup>15</sup> or direct filing an information.<sup>16</sup>

Direct file is the most common way that children are transferred to adult court. During FY 2019-20, there were 4 voluntary waivers, 5 involuntary waivers, 4 indictments, and 788 direct files.<sup>17</sup>

### ***Judicial Waiver***

“Judicial waiver” occurs when a child or a state attorney requests the juvenile court to transfer a child to adult court. There are three types of judicial waiver: voluntary, involuntary *discretionary* waiver, and involuntary *mandatory* waiver.<sup>18</sup>

### **Voluntary Waiver**

The court must transfer a child’s case to adult court if the child, joined by a parent or guardian ad litem, demands to be tried as an adult. This demand must be made in writing and prior to an adjudicatory hearing.<sup>19</sup>

### **Involuntary Discretionary Waiver**

Section 985.556(2), F.S., provides that the state attorney may file a motion requesting the court to transfer the child to adult court if the child was 14 years of age or older at the time of the offense.<sup>20</sup> Involuntary discretionary waiver may be filed for any offense.

### **Involuntary Mandatory Waiver**

Section 985.556(3), F.S., provides that the state attorney must request the court transfer a child to adult court, or provide written reasons to the court for not making such request, or proceed under discretionary direct file, if the child was 14 years of age or older:

- And has been previously adjudicated delinquent for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong armed robbery, carjacking, home invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person;<sup>21</sup> or
- At the time of commission of a fourth or subsequent alleged felony offense, and the child was previously adjudicated delinquent or had adjudication withheld for the commission of, attempted commission of, or conspiracy to commit three felony offenses, and at least one of such offenses involved the use or possession of a firearm or violence against a person.<sup>22</sup>

---

<sup>15</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child’s case must be transferred to adult court for prosecution. *See* s. 985.56, F.S.

<sup>16</sup> Sections 985.556, 985.56, and 985.557, F.S.

<sup>17</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 640*, p. 2., (March 3, 2021) (on file with the Senate Committee on Criminal Justice).

<sup>18</sup> Section 985.556, F.S.

<sup>19</sup> Section 985.556(1), F.S.

<sup>20</sup> Section 985.556(2), F.S.

<sup>21</sup> Section 985.556(3)(a), F.S.

<sup>22</sup> Section 985.556(3)(b), F.S.

The court must either transfer a child to adult court upon the state attorney's request, or provide written reasons for not transferring the child.<sup>23</sup>

#### Waiver Hearing

The state attorney may file a motion requesting the court to transfer the child to adult court within 7 days (excluding Saturdays, Sundays, and legal holidays) after the date of filing the petition. The state attorney may file such motion at a later time with court approval, but this must occur before an adjudicatory hearing and after considering the recommendation of the juvenile probation officer.<sup>24</sup>

The court must conduct a hearing on all transfer request motions to determine whether a child should be transferred. The court should consider the following in making its determination:

- The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.
- Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.
- The probable cause as found in the report, affidavit, or complaint.
- The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.
- The sophistication and maturity of the child.
- The record and previous history of the child.<sup>25</sup>
- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.<sup>26</sup>

A study and written report from the DJJ must be completed prior to the hearing. The child, the child's parents or legal guardians, defense counsel and the state attorney have the right to examine the report and question the parties responsible for them at the hearing.<sup>27</sup> The court must render a written order including specific findings of fact and the reason for a decision to transfer to adult court. Once a child is transferred to adult court pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the

---

<sup>23</sup> Section 985.556(3), F.S.

<sup>24</sup> Section 985.556(4)(a), F.S.

<sup>25</sup> Section 985.556(4)(a)-(d), F.S., provides that the record and previous history of the child includes: previous contacts with the DJJ, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Families, other law enforcement agencies, and courts; prior periods of probation; prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and prior commitments to institutions.

<sup>26</sup> Section 985.556(4)(c), F.S.

<sup>27</sup> Section 985.556(4)(d), F.S.



child must thereafter be handled in every respect as an adult for any subsequent violation of law, unless the court imposes juvenile sanctions.<sup>28</sup>

### ***Indictment***

A child of any age who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the juvenile court unless and until an indictment on the charge is returned by the grand jury. When an indictment is returned, the petition for delinquency must be dismissed and the child must be tried and handled in every respect as an adult:

- On the offense punishable by death or by life imprisonment; and
- On all other felonies or misdemeanors charged in the indictment which are based on:
  - The same act or transaction as the offense punishable by death or by life imprisonment; or
  - One or more acts or transactions connected with the offense punishable by death or by life imprisonment.<sup>29</sup>

An adjudicatory hearing generally may not be held for 21 days after a child is taken into custody and charged with having committed an indictable offense. However, this time limitation does not apply if the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such notice, or the grand jury fails to act within the 21 day period, the court may proceed as otherwise authorized.<sup>30</sup>

Once a child has been indicted, the court must transfer all of the child's felony cases that have not resulted in a plea of guilty or no contest, or a finding of guilt, to adult court. If the child is acquitted of all indicted offenses and lesser included offenses contained in the indictment, all felony cases that were transferred to adult court are subject to the same penalties they were subject to prior to the transfer to adult court.<sup>31</sup>

The child must be sentenced as an adult if he or she is found to have committed an indictable offense. If the child is not found to have committed the indictable offense, but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence the child to juvenile sanctions under s. 985.565, F.S.<sup>32</sup>

Once a child has been found to have committed any offense for which he or she was indicted, the child must be handled in every respect as an adult for any subsequent violation of state law, unless the court imposed juvenile sanctions.<sup>33</sup>

---

<sup>28</sup> Section 985.556(5)(b), F.S.

<sup>29</sup> Section 985.56(1)(a) and (b), F.S.

<sup>30</sup> Section 985.56(2), F.S.

<sup>31</sup> Section 985.56(4), F.S.

<sup>32</sup> Section 985.56(3), F.S.

<sup>33</sup> Section 985.56(4), F.S.

***Direct File***

Direct file describes the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., the decision to direct file is left to the discretion of the state attorney and does not require the court's approval.

**Discretionary Direct File**

Section 985.557(1), F.S., provides the state attorney has discretion to file a case in adult court for specified crimes when he or she believes that the public interest requires adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age at the time of the alleged offense and is charged with the commission of, attempt to commit, or conspiracy to commit, one of the following felony offenses:
  - Arson;
  - Sexual battery;
  - Robbery;
  - Kidnapping;
  - Aggravated child abuse;
  - Aggravated assault;
  - Aggravated stalking;
  - Murder;
  - Manslaughter;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;
  - Armed burglary in violation of s. 810.02(2)(b), F.S.;
  - Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
  - Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
  - Aggravated battery;
  - Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
  - Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
  - Grand theft in violation of s. 812.014(2)(a), F.S.;
  - Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
  - Home invasion robbery;
  - Carjacking;
  - Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
  - Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.<sup>34</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>35</sup> or
- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>36</sup>

---

<sup>34</sup> Section 985.557(1)(a), F.S.

<sup>35</sup> Section 985.557(1)(b), F.S.

<sup>36</sup> *Id.*

A child who has been transferred to adult court pursuant to an information and is found to have committed a violation of state law or a lesser included offense must be treated as an adult in every respect for any subsequent offense, unless the court imposed juvenile sanctions under s. 985.565, F.S.<sup>37</sup>

### ***Children Transferred to Adult Facilities***

Section 985.265(5), F.S., provides when a child may be held in a jail or other adult facility. Children must be housed separately from adult inmates to prohibit regular contact<sup>38</sup> with incarcerated adults. A child must be transferred to an adult jail or other adult facility when he or she:

- Has been transferred or indicted for criminal prosecution as an adult.
  - Except when the child is charged with only a misdemeanor and is being transferred to adult court pursuant to the waiver or direct file process, in which case he or she may not be held in an adult facility, but may be held temporarily in a juvenile detention facility.
- Is wanted by another jurisdiction for prosecution as an adult.<sup>39</sup>

A child who is transferred to a jail or adult facility must be housed separately from adult inmates to prevent a child from having regular contact with incarcerated adults. Supervision and monitoring of children includes physical observation and documented checks at least every 10 minutes. While multiple children may be placed in the same cell, a child may not be placed in a cell with an adult.<sup>40</sup>

### ***Juvenile Sanctions and Procedures vs. Adult Criminal Court***

There are significant differences between juvenile court and the adult court:

- An adjudication of delinquency is not a conviction, and a delinquent child is not considered a criminal.
  - Adjudication by the juvenile court does not impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction, or disqualify or prejudice the child in any civil service application or appointment, with limited exceptions.<sup>41</sup>
- Most judicial records of children are exempt from public disclosure, unlike adult judicial records.<sup>42</sup> However, certain criminal history information relating to children who have been charged with a felony offense is not confidential and exempt.<sup>43</sup>
- Children accused of crimes are released unless detention is warranted.<sup>44</sup> There is no bail in the juvenile system.

<sup>37</sup> Section 985.557(2)(a), F.S.

<sup>38</sup> Section 985.265(5), F.S., defines “regular contact” as sight and sound contact.

<sup>39</sup> Section 985.265(5), F.S.

<sup>40</sup> Section 985.265(5), F.S.

<sup>41</sup> Section 985.35(6), F.S. Limited exceptions include: A finding of delinquency qualifies as a “conviction” for purposes of issuance, suspension or revocation of a driver license. A finding of delinquency is a conviction for purposes of examining that child’s past record in future delinquency cases. A delinquent found to have committed a felony is disqualified from lawfully possessing a firearm until age 24 unless the record is expunged. Section 985.35(7), F.S.

<sup>42</sup> Section 985.045(2), F.S.

<sup>43</sup> Section 985.04(2), F.S.

<sup>44</sup> Sections 985.115, 985.255, and 985.26, F.S.

- Children are tried before a circuit judge. There is no right to a jury trial.
- The court may, where permitted by law, commit a child to a residential program.<sup>45</sup> The residential program risk levels include, minimum-risk residential, nonsecure residential, high-risk residential, and maximum-risk residential programs.<sup>46</sup> Those sentenced in adult court may be sentenced to jail or prison for a term up to that allowed by statute.
- The court does not retain jurisdiction over a child past the age 21.<sup>47</sup> Jurisdiction over offenders in adult court extend up to life.

### **Forcible Felony**

A forcible felony includes:

- Treason;
- Murder;
- Manslaughter;
- Sexual battery;
- Carjacking;
- Home-invasion robbery;
- Robbery;
- Burglary;
- Arson;
- Kidnapping;
- Aggravated assault;
- Aggravated battery;
- Aggravated stalking;
- Aircraft piracy;
- Unlawful throwing, placing, or discharging of a destructive device or bomb; and
- Any other felony which involves the use or threat of physical force or violence against any individual.<sup>48</sup>

### **Competency**

A child is competent to proceed if he or she has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings.<sup>49</sup> A child may be found incompetent due to mental illness, or intellectual disability or autism.<sup>50</sup> If the court has reason to believe a child may be incompetent to proceed, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.<sup>51</sup>

---

<sup>45</sup> Section 985.441, F.S.

<sup>46</sup> Section 985.03(44), F.S.

<sup>47</sup> Sections 985.0301(5)(b) and (5)(c), F.S. Restitution is not a sanction, and the delinquency court retains jurisdiction until paid. Section 985.0301(5)(d), F.S.

<sup>48</sup> Section 776.08, F.S.

<sup>49</sup> Section 985.19(1)(f), F.S.

<sup>50</sup> Section 985.19(1)(d) and (e), F.S.

<sup>51</sup> Section 985.19(1), F.S.

The expert's evaluation and report must address the child's capacity to:

- Appreciate the charges or allegations against the child.
- Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.
- Understand the adversarial nature of the legal process.
- Disclose to counsel facts pertinent to the proceedings at issue.
- Display appropriate courtroom behavior.
- Testify relevantly.<sup>52</sup>

### **III. Effect of Proposed Changes:**

This bill amends s. 985.556, F.S., to remove involuntary mandatory waiver from the ways in which a child may be transferred to adult court. Section 985.556(3), F.S., relating to involuntary mandatory waiver, provides under what circumstances a state attorney must request the court to transfer a child to adult court.

This bill amends s. 985.557, F.S., to remove the discretionary direct filing of a child 14 or 15 years of age. Additionally, this bill provides that the state attorney may only direct file an information on a child 16 or 17 years of age when the offense committed was a forcible felony, as defined in s. 776.08, F.S. The bill renames "discretionary direct file" to "discretionary prosecution of children as adults."

This bill amends s. 985.56, F.S., providing that only a child 14 years of age or older who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the juvenile court unless and until an indictment on the charge is returned by the grand jury. Additionally, the bill provides that a child who commits an offense for which he or she may be indicted and who has a pending competency hearing or previously has been found incompetent and has not been restored may not be transferred to adult court until competency is restored. A pending competency hearing or finding of incompetency tolls the time limitation for the adjudicatory hearing.

Further, this bill amends s. 985.56, F.S., removing the requirement that a child who has committed an offense punishable by death or by life imprisonment be sentenced as an adult pursuant to s. 985.565, F.S. Under this bill, a child who has committed such an offense may be sentenced as an adult or juvenile.

The bill amends s. 985.565, F.S., to give the court discretion to sentence a child who has been indicted as an adult or juvenile. Additionally, the bill amends this section to make conforming changes.

The bill amends s. 985.03 F.S., to include or remove the appropriate cross-references.

The bill reenacts ss. 985.265, 985.15, and 985.26, F.S., for purposes of incorporating the amendments made by this act.

---

<sup>52</sup> Section 985.19(1)(f)1.-6., F.S.

This bill is effective July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DJJ states that the bill will have an indeterminate fiscal impact on the department. In accordance with the Detention Cost Share, all non-fiscally constrained counties pay for half of their prior year actual detention costs. More youth being detained in juvenile secure detention would mean a higher cost to the counties to pay for their detention care.<sup>53</sup>

Using adult transfer numbers from FY 2019-20, the DJJ determined that 286 children would not have been eligible for adult transfer via direct file under the new language. Children who are not transferred to adult court will impose a financial cost on the DJJ.

---

<sup>53</sup> The Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 640*, (March 3, 2021), p. 5., (on file with the Senate Committee on Criminal Justice).

These costs include but are not limited to detention cost, transportation cost, evaluations, and treatment cost.<sup>54</sup>

The DJJ estimates the pre-adjudicatory Variable Detention Cost total to be \$363,543.18.

The DJJ estimates the post-adjudicatory cost to be:

- \$159,315 per youth in Max Risk Residential.
- \$85,709 per youth in High Risk Residential.
- \$51,067 per youth in Nonsecure Residential.
- \$17,751 per youth in Day Treatment Probation.<sup>55</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of Florida Statutes: 985.03, 985.556, 985.557, 985.56, and 985.565.

The bill reenacts the following sections of the Florida Statutes: 985.15, 985.26, and 985.265.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 16, 2021:**

The committee substitute replaces the term “violent felony,” with “forcible felony, as defined in s. 776.08.” Additionally, the committee substitute replaces the term “shall,” with “may,” to give courts discretion to sentence a child who has been indicted as an adult or juvenile.

- B. **Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

---

---

<sup>54</sup> *Id.* at 5.

<sup>55</sup> *Id.* at 6.



656834

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Powell) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 134 - 245  
and insert:  
at the time the alleged forcible felony, as defined in s.  
776.08, offense was committed, the state attorney may file an  
information when in the state attorney's judgment and discretion  
the public interest requires that adult sanctions be considered  
or imposed. However, the state attorney may not file an  
information on a child charged with a misdemeanor, unless the





656834

child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a violent felony under state law.

(2) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT FILE~~.—

(a) Once a child has been transferred for criminal prosecution pursuant to an information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If a child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, all felony cases that were transferred to adult court as a result of this paragraph shall be subject to the same penalties to which such cases would have been subject before being transferred to adult court.

(c) When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may be made under s. 985.565 and may include the enforcement of any restitution ordered in any juvenile proceeding.



656834

(3) CHARGES INCLUDED ON INFORMATION.—An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

Section 3. Section 985.56, Florida Statutes, is amended to read:

985.56 Indictment of a juvenile.—

(1) A child 14 years of age or older ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.0301(2) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(a) On the indictable offense punishable by death or by life imprisonment; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the indictable offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an indictable offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court



656834

receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) Notwithstanding any other law, a child who commits an offense for which he or she may be indicted and who has a pending competency hearing in juvenile court or who previously has been found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution until the child's competency is restored. A pending competency hearing or a finding of incompetency tolls the time limits in subsection (2). If the child is found to have committed the offense punishable by death or by life imprisonment, the child may ~~shall~~ be sentenced pursuant to s. 985.565 ~~as an adult~~. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence under s. 985.565.

(4) (a) If ~~Once~~ a child has been indicted pursuant to this section and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child must ~~shall~~ be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) If ~~When~~ a child has been indicted pursuant to this section, the court must ~~shall~~ immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which



656834

a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, all felony cases that were transferred to adult court pursuant to this paragraph must ~~shall~~ be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 4. Subsection (54) of section 985.03, Florida Statutes, is amended to read:

985.03 Definitions.—As used in this chapter, the term:

(54) "Waiver hearing" means a hearing provided for under s. 985.556(3) ~~s. 985.556(4)~~.

Section 5. Paragraphs (a) and (b) of subsection (4) of section 985.565, Florida Statutes, are amended to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(a) *Adult sanctions*.—

1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child may ~~shall~~ be sentenced as an adult. If the

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 28

and insert:

s. 985.565, F.S.; providing discretion in sentencing; conforming provisions to changes

By Senator Powell

30-00642-21

2021640\_\_

1 A bill to be entitled  
 2 An act relating to prosecuting children as adults;  
 3 amending s. 985.556, F.S.; deleting provisions under  
 4 which a state attorney must either request a court to  
 5 transfer and certify children of certain ages who  
 6 commit specified crimes for prosecution as adults or  
 7 provide written reasons to the court for not making  
 8 such a request, or must proceed under certain  
 9 provisions; amending s. 985.557, F.S.; revising the  
 10 circumstances under which a state attorney may file an  
 11 information in cases that involve children of certain  
 12 ages who commit certain crimes; amending s. 985.56,  
 13 F.S.; providing that children 14 years of age or  
 14 older, rather than children of any age, who are  
 15 charged with certain offenses are subject to the  
 16 jurisdiction of the court until an indictment is  
 17 returned by the grand jury; prohibiting the transfer  
 18 of a child to adult court for criminal prosecution of  
 19 an indictable offense until the child's competency has  
 20 been restored, if the child has a pending competency  
 21 hearing or previously has been found incompetent and  
 22 has not been restored to competency by a court;  
 23 providing for the tolling of certain time limits;  
 24 authorizing, rather than requiring, a child who is  
 25 found to have committed specified crimes to be  
 26 sentenced according to certain provisions; amending s.  
 27 985.03, F.S.; conforming a cross-reference; amending  
 28 s. 985.565, F.S.; conforming provisions to changes  
 29 made by the act; reenacting s. 985.265(5), F.S.,

Page 1 of 14

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

30-00642-21

2021640\_\_

30 relating to detention transfer and release, education,  
 31 and adult jails, to incorporate the amendments made to  
 32 ss. 985.556 and 985.557, F.S., in references thereto;  
 33 reenacting s. 985.15(1), F.S., relating to filing  
 34 decisions, to incorporate the amendments made to ss.  
 35 985.556 and 985.557, F.S., in references thereto;  
 36 reenacting s. 985.26(2)(c), F.S., relating to the  
 37 length of detention, to incorporate the amendments  
 38 made to ss. 985.557 and 985.56, F.S., in references  
 39 thereto; providing an effective date.

41 Be It Enacted by the Legislature of the State of Florida:

42  
 43 Section 1. Subsections (2) and (3) of section 985.556,  
 44 Florida Statutes, are amended, and subsection (1) of that  
 45 section is republished, to read:

46 985.556 Waiver of juvenile court jurisdiction; hearing.—

47 (1) VOLUNTARY WAIVER.—The court shall transfer and certify  
 48 a child's criminal case for trial as an adult if the child is  
 49 alleged to have committed a violation of law and, prior to the  
 50 commencement of an adjudicatory hearing, the child, joined by a  
 51 parent or, in the absence of a parent, by the guardian or  
 52 guardian ad litem, demands in writing to be tried as an adult.  
 53 Once a child has been transferred for criminal prosecution  
 54 pursuant to a voluntary waiver hearing and has been found to  
 55 have committed the presenting offense or a lesser included  
 56 offense, the child shall be handled thereafter in every respect  
 57 as an adult for any subsequent violation of state law, unless  
 58 the court imposes juvenile sanctions under s. 985.565(4)(b).

Page 2 of 14

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

30-00642-21

2021640

(2) INVOLUNTARY DISCRETIONARY WAIVER. ~~Except as provided in subsection (3),~~ The state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed.

~~(3) INVOLUNTARY MANDATORY WAIVER.—~~

~~(a) If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person; or~~

~~(b) If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person;~~

~~the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and~~

Page 3 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30-00642-21

2021640

~~certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.~~

Section 2. Section 985.557, Florida Statutes, is amended to read:

985.557 Prosecuting children as adults ~~Direct filing of an information;~~ discretionary criteria.—

(1) DISCRETIONARY PROSECUTION OF CHILDREN AS ADULTS DIRECT FILE.—

~~(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is for the commission of, attempt to commit, or conspiracy to commit:~~

~~1. Arson;~~

~~2. Sexual battery;~~

~~3. Robbery;~~

~~4. Kidnapping;~~

~~5. Aggravated child abuser;~~

~~6. Aggravated assault;~~

~~7. Aggravated stalking;~~

~~8. Murder;~~

~~9. Manslaughter;~~

~~10. Unlawful throwing, placing, or discharging of a destructive device or bomb;~~

~~11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in~~

Page 4 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30-00642-21

2021640\_\_

117 ~~violation of s. 810.02(2)(a);~~

118 ~~12. Aggravated battery;~~

119 ~~13. Any lewd or lascivious offense committed upon or in the~~  
 120 ~~presence of a person less than 16 years of age;~~

121 ~~14. Carrying, displaying, using, threatening, or attempting~~  
 122 ~~to use a weapon or firearm during the commission of a felony;~~

123 ~~15. Grand theft in violation of s. 812.014(2)(a);~~

124 ~~16. Possessing or discharging any weapon or firearm on~~  
 125 ~~school property in violation of s. 790.115;~~

126 ~~17. Home invasion robbery;~~

127 ~~18. Carjacking; or~~

128 ~~19. Grand theft of a motor vehicle in violation of s.~~  
 129 ~~812.014(2)(c)6. or grand theft of a motor vehicle valued at~~  
 130 ~~\$20,000 or more in violation of s. 812.014(2)(b) if the child~~  
 131 ~~has a previous adjudication for grand theft of a motor vehicle~~  
 132 ~~in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).~~

133 ~~(b)~~ With respect to any child who was 16 or 17 years of age  
 134 at the time the alleged violent felony offense was committed,  
 135 the state attorney may file an information when in the state  
 136 attorney's judgment and discretion the public interest requires  
 137 that adult sanctions be considered or imposed. However, the  
 138 state attorney may not file an information on a child charged  
 139 with a misdemeanor, unless the child has had at least two  
 140 previous adjudications or adjudications withheld for delinquent  
 141 acts, one of which involved an offense classified as a violent  
 142 felony under state law.

143 (2) EFFECT OF PROSECUTION OF CHILDREN AS ADULTS ~~DIRECT~~  
 144 ~~FILE.~~

145 (a) Once a child has been transferred for criminal

30-00642-21

2021640\_\_

146 prosecution pursuant to an information and has been found to  
 147 have committed the presenting offense or a lesser included  
 148 offense, the child shall be handled thereafter in every respect  
 149 as if an adult for any subsequent violation of state law, unless  
 150 the court imposes juvenile sanctions under s. 985.565.

151 (b) When a child is transferred for criminal prosecution as  
 152 an adult, the court shall immediately transfer and certify to  
 153 the adult circuit court all felony cases pertaining to the  
 154 child, for prosecution of the child as an adult, which have not  
 155 yet resulted in a plea of guilty or nolo contendere or in which  
 156 a finding of guilt has not been made. If a child is acquitted of  
 157 all charged offenses or lesser included offenses contained in  
 158 the original case transferred to adult court, all felony cases  
 159 that were transferred to adult court as a result of this  
 160 paragraph shall be subject to the same penalties to which such  
 161 cases would have been subject before being transferred to adult  
 162 court.

163 (c) When a child has been transferred for criminal  
 164 prosecution as an adult and has been found to have committed a  
 165 violation of state law, the disposition of the case may be made  
 166 under s. 985.565 and may include the enforcement of any  
 167 restitution ordered in any juvenile proceeding.

168 (3) CHARGES INCLUDED ON INFORMATION.—An information filed  
 169 pursuant to this section may include all charges that are based  
 170 on the same act, criminal episode, or transaction as the primary  
 171 offenses.

172 Section 3. Section 985.56, Florida Statutes, is amended to  
 173 read:

174 985.56 Indictment of a juvenile.—

30-00642-21

2021640\_\_

(1) A child 14 years of age or older ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.0301(2) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(a) On the indictable offense punishable by death or by life imprisonment; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the indictable offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an indictable offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) Notwithstanding any other law, a child who commits an offense for which he or she may be indicted and who has a pending competency hearing in juvenile court or who previously has been found to be incompetent and has not been restored to

30-00642-21

2021640\_\_

competency by a court may not be transferred to adult court for criminal prosecution until the child's competency is restored. A pending competency hearing or a finding of incompetency tolls the time limits in subsection (2). If the child is found to have committed the offense punishable by death or by life imprisonment, the child may ~~shall~~ be sentenced pursuant to s. 985.565 ~~as an adult~~. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence under s. 985.565.

(4) (a) If ~~Once~~ a child has been indicted pursuant to this section and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child must ~~shall~~ be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) If ~~When~~ a child has been indicted pursuant to this section, the court must ~~shall~~ immediately transfer and certify to the adult circuit court all felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, all felony cases that were transferred to adult court pursuant to this paragraph must ~~shall~~ be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 4. Subsection (54) of section 985.03, Florida



30-00642-21

2021640\_\_

Statutes, is amended to read:

985.03 Definitions.—As used in this chapter, the term:

(54) "Waiver hearing" means a hearing provided for under s. 985.556(3) ~~s. 985.556(4)~~.

Section 5. Paragraphs (a) and (b) of subsection (4) of section 985.565, Florida Statutes, are amended to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(a) *Adult sanctions*.—

1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

a. As an adult;

b. Under chapter 958; or

c. As a juvenile under this section.

2. Other cases.—If a child who has been transferred for criminal prosecution pursuant to information or waiver of juvenile court jurisdiction is found to have committed a violation of state law or a lesser included offense for which he or she was charged as a part of the criminal episode, the court may sentence as follows:

a. As an adult;

b. Under chapter 958; or

c. As a juvenile under this section.

30-00642-21

2021640\_\_

3. ~~Notwithstanding any other provision to the contrary, if the state attorney is required to file a motion to transfer and certify the juvenile for prosecution as an adult under s. 985.556(3) and that motion is granted, the court must impose adult sanctions.~~

4. Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to set forth specific findings or enumerate the criteria in this subsection as any basis for its decision to impose adult sanctions.

~~4.5.~~ When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may include the enforcement of any restitution ordered in any juvenile proceeding.

(b) *Juvenile sanctions*.—For juveniles transferred to adult court ~~but who do not qualify for such transfer under s. 985.556(3)~~, the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency may not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department

30-00642-21 2021640\_\_

291 shall return custody of the child to the sentencing court for  
 292 further proceedings, including the imposition of adult  
 293 sanctions. Upon adjudicating a child delinquent under subsection  
 294 (1), the court may:

295 1. Place the child in a probation program under the  
 296 supervision of the department for an indeterminate period of  
 297 time until the child reaches the age of 19 years or sooner if  
 298 discharged by order of the court.

299 2. Commit the child to the department for treatment in an  
 300 appropriate program for children for an indeterminate period of  
 301 time until the child is 21 or sooner if discharged by the  
 302 department. The department shall notify the court of its intent  
 303 to discharge no later than 14 days before discharge. Failure of  
 304 the court to timely respond to the department's notice shall be  
 305 considered approval for discharge.

306 3. Order disposition under ss. 985.435, 985.437, 985.439,  
 307 985.441, 985.45, and 985.455 as an alternative to youthful  
 308 offender or adult sentencing if the court determines not to  
 309 impose youthful offender or adult sanctions.

310

311 It is the intent of the Legislature that the criteria and  
 312 guidelines in this subsection are mandatory and that a  
 313 determination of disposition under this subsection is subject to  
 314 the right of the child to appellate review under s. 985.534.

315 Section 6. For the purpose of incorporating the amendments  
 316 made by this act to sections 985.556 and 985.557, Florida  
 317 Statutes, in references thereto, subsection (5) of section  
 318 985.265, Florida Statutes, is reenacted to read:

319 985.265 Detention transfer and release; education; adult

30-00642-21 2021640\_\_

320 jails.-

321 (5) The court shall order the delivery of a child to a jail  
 322 or other facility intended or used for the detention of adults:

323 (a) When the child has been transferred or indicted for  
 324 criminal prosecution as an adult under part X, except that the  
 325 court may not order or allow a child alleged to have committed a  
 326 misdemeanor who is being transferred for criminal prosecution  
 327 pursuant to either s. 985.556 or s. 985.557 to be detained or  
 328 held in a jail or other facility intended or used for the  
 329 detention of adults; however, such child may be held temporarily  
 330 in a detention facility; or

331 (b) When a child taken into custody in this state is wanted  
 332 by another jurisdiction for prosecution as an adult.

333

334 The child shall be housed separately from adult inmates to  
 335 prohibit a child from having regular contact with incarcerated  
 336 adults, including trustees. "Regular contact" means sight and  
 337 sound contact. Separation of children from adults shall permit  
 338 no more than haphazard or accidental contact. The receiving jail  
 339 or other facility shall contain a separate section for children  
 340 and shall have an adequate staff to supervise and monitor the  
 341 child's activities at all times. Supervision and monitoring of  
 342 children includes physical observation and documented checks by  
 343 jail or receiving facility supervisory personnel at intervals  
 344 not to exceed 10 minutes. This subsection does not prohibit  
 345 placing two or more children in the same cell. Under no  
 346 circumstances shall a child be placed in the same cell with an  
 347 adult.

348 Section 7. For the purpose of incorporating the amendments

30-00642-21 2021640\_\_

made by this act to sections 985.556 and 985.557, Florida Statutes, in references thereto, subsection (1) of section 985.15, Florida Statutes, is reenacted to read:

985.15 Filing decisions.—

(1) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer and shall determine the action that is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult under s. 985.556, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such a request. In all other cases, the state attorney may:

(a) File a petition for dependency;

(b) File a petition under chapter 984;

(c) File a petition for delinquency;

(d) File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

(e) File an information under s. 985.557;

(f) Refer the case to a grand jury;

(g) Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardian; or

(h) Decline to file.

Section 8. For the purpose of incorporating the amendments made by this act to sections 985.557 and 985.56, Florida Statutes, in references thereto, paragraph (c) of subsection (2)

30-00642-21 2021640\_\_

of section 985.26, Florida Statutes, is reenacted to read:

985.26 Length of detention.—

(2)

(c) A prolific juvenile offender under s. 985.255(1)(f) shall be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order until disposition. If secure detention care is ordered by the court, it must be authorized under this part and may not exceed:

1. Twenty-one days unless an adjudicatory hearing for the case has been commenced in good faith by the court or the period is extended by the court pursuant to paragraph (b); or

2. Fifteen days after the entry of an order of adjudication.

As used in this paragraph, the term "disposition" means a declination to file under s. 985.15(1)(h), the entry of nolle prosequi for the charges, the filing of an indictment under s. 985.56 or an information under s. 985.557, a dismissal of the case, or an order of final disposition by the court.

Section 9. This act shall take effect July 1, 2021.



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Juvenile Justice**

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 640
<b>BILL TITLE:</b>	Prosecuting Children as Adults
<b>BILL SPONSOR:</b>	Senator Powell
<b>EFFECTIVE DATE:</b>	July 1, 2021

### COMMITTEES OF REFERENCE

1) Criminal Justice
2) Appropriations Sub. on Criminal & Civil Justice
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Criminal Justice
------------------

### SIMILAR BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	SB 628
<b>SPONSOR:</b>	Senator Bobby Powell
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	Died in Criminal Justice

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	HB 809
<b>SPONSOR:</b>	Representative Bush

### **Is this bill part of an agency package?**

No

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	03/03/2021
<b>LEAD AGENCY ANALYST:</b>	Sam Kerce, Deputy Legislative Affairs Director 850-717-2717
<b>ADDITIONAL ANALYST(S):</b>	Click or tap here to enter text.
<b>LEGAL ANALYST:</b>	John Mila, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Click or tap here to enter text.

---

## POLICY ANALYSIS

---

### 1. EXECUTIVE SUMMARY

The bill limits the process of adult transfer in which a juvenile is transferred to adult court for prosecution of their case. The bill eliminates involuntary mandatory waiver and renames “direct filing” to “prosecuting children as adults”. The bill narrows discretionary direct file by removing the ability to direct file a 14 or 15-year-old, restricting it to children 16-17 years of age at the time of an alleged violent felony offense. Further, the bill sets the minimum age for indictment at 14 years of age. A child who is eligible for indictment may not be transferred to adult court until competency is restored.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

##### Methods of Adult Transfer (FY 2019-20):

1. **Voluntary: 0.5% of youth (4 youth)**
2. **Involuntary waiver: 0.6% (5 youth)**
3. **Direct file: 98.4% (788 youth)**
4. **Indictment: 0.5% (4 youth)**

“Direct file” is by far the most common means of transfer, accounting for more than 98% of transfers over the past 5 years.

The various methods of transfer are distinct, and recognizing their differences is critical.

**INDICTMENT:** The narrowest form of transfer, it applies to children of any age who are accused of committing an offense for which an adult could receive death or life imprisonment. The decision to seek indictment rests entirely with the state attorney.

**VOLUNTARY WAIVER:** A child of any age charged with any offense can voluntarily transfer his or her case to adult court, it is rare.

**INVOLUNTARY DISCRETIONARY WAIVER:** Any child 14 years of age or older at the time of any offense may be subject to involuntary waiver where the state attorney files information with the court requesting transfer and the judge must review and either approve or deny the transfer.

**INVOLUNTARY MANDATORY WAIVER:** When a youth meets certain requirements under this section a state attorney must put in a request to the court to transfer the youth for adult prosecution or the state attorney must provide written reason to the court as to why the youth should not be transferred. If the state attorney does request transfer, then a judge must review and approve or deny the transfer. Criteria are:

- a. The child was 14 years of age or older and has previously been adjudicated delinquent for a felony offense for commission, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the youth is currently charged with a second violent crime.
- b. The youth is 14 years of age or older at the time of commission of a fourth alleged felony and the child was previously adjudicated delinquent or adjudicated withheld for three offenses that are felony offenses if committed by an adult, and at least one of those felony offenses involved the use of a firearm or violence against a person.

**DISCRETIONARY DIRECT FILE:** Unlike waiver, which requires the participation and approval of the court, discretionary direct file is accomplished exclusively by the state attorney. Discretionary direct file is

extremely broad, and comes in two forms, depending upon the youth's age at the time of the offense. For 14- or 15-year-olds, a wide range of violent or serious felony offenses are subject to direct file, including arson, sexual battery, robbery, aggravated assault / battery, most forms of first-degree burglary, lewd or lascivious offenses, first-degree grand theft, home invasion, carjacking, carrying a weapon or firearm during the commission of a felony, and a second grand theft of a motor vehicle. A 16- or 17-year-old may be direct filed for any felony offense, or a misdemeanor if the youth has at least two previous adjudications or withholds, at least one of which involved a felony. Under Discretionary Direct File a state attorney only needs to file an information to transfer the youth to adult court. A judge or court is not involved in this decision.

## **2. EFFECT OF THE BILL:**

### Section 1:

Strikes subsection 985.556(3), F.S., removing the process of involuntary mandatory waiver.

*A review of FY 2019-20 adult transfers revealed that five (5) youth were transferred to adult court via involuntary mandatory waiver.*

### Section 2:

Amends subsection 985.557(1), F.S., to rename discretionary direct file to discretionary prosecution of children as adults. It strikes paragraph 985.557(1)(a), F.S., thus removing the ability for discretionary direct file of a youth who is 14 or 15 years of age, which effectively sets the minimum age for discretionary direct file "discretionary prosecution of children as adults" to 16 years of age. The language further amends discretionary direct file by stating that with respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, that the offense must be a *violent* felony. Furthermore, if a state attorney wishes to file information on a 16 or 17-year-old youth who committed a misdemeanor, that youth must have had two prior adjudications/adjudications withheld, one of which must have been for a *violent* felony instead of just a felony.

*A review of FY 2019-20 adult transfers revealed that 73 youth age 14 or 15 were direct filed. In addition, there were 570 16 and 17-year-old youth who were direct filed, 365 of them were direct filed for what the department considers a violent felony. Furthermore, it was found that seven (7) out of the ten (10) 16- and 17-year age youth who were direct filed for misdemeanor charges had prior "violent felonies".*

*Under the revisions in section 2 of the bill, 281 youth who were direct filed in FY 2019-20 would not have been eligible for direct file.*

*\*The bill does not define a violent felony. For the purpose of this analysis, the department used a list of 162 predetermined charges it considers "violent felonies" for the purposes of its detention risk assessment instrument.*

### Section 3:

Amends subsection 985.56(1), F.S., by setting the minimum age that a youth can be indicted to 14 years of age or older. Provides that a youth who is eligible for indictment and who has a pending competency hearing or has previously been found incompetent and has not been restored competent may not be transferred to adult court for criminal prosecution until the child's competency is restored. The bill also allows for a child who has been found to have committed the indictable offense to be sentenced pursuant to s. 985.565, F.S., which allows for juvenile sanctions.

*A review of FY 2019-20 adult transfer cases revealed that no youth under 14-years of age were indicted.*

Section 4: conforms cross references in subsection 985.03(54), F.S., Definitions.

Section 5: conforms cross references in subsection 985.565(4), F.S., Sentencing Alternatives.

Section 6: Reenacts s. 985.15(1), F.S.

Section 7: Reenacts s. 985.265(5), F.S.

Section 8: Reenacts s. 985.26(2)(c), F.S.

**Section 9:** Adds an effective date of July 1, 2021.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**

Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

## FISCAL ANALYSIS

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**

Y ☒ N ☐

Revenues:	Click or tap here to enter text.
-----------	----------------------------------

Expenditures:	Indeterminate. In accordance with Detention Cost Share, all non-fiscally constrained counties pay for half of their prior year actual detention costs. More youth being detained in juvenile secure detention would mean a higher cost to the counties to pay for their detention share.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	<p>Indeterminate.</p> <p>Using adult transfer numbers from FY 2019-20, the Department can determine that 286 youth would not have been eligible for adult transfer via direct file under the new language.</p> <p>Youth who are not transferred to adult court will impose a financial cost to DJJ. These costs include, but are not limited to detention cost, transportation cost, evaluations, and treatment cost.</p> <p><b>Pre-Adjudicatory Detention Cost:</b></p> <p>Of the 286 youth, it is assumed that the seriousness of their crime along with prior offenses would score them for secure detention. A youth can be held for up to 21 days in secure detention.  21 days X 286 youth = 6,006 service days  6,006 service days X \$60.53 Variable Detention Cost = <b><u>\$363,543.18.</u></b></p> <p><b>**Variable detention cost includes food, laundry, and medical.</b></p> <p><b>Post-Adjudicatory Detention Cost:</b></p> <p>After a youth is disposed of by a court to a residential treatment program, the youth is held in detention until their treatment facility is ready to accept them. Depending on multiple factors, a youth may wait numerous weeks prior to being placed in their bed. Using a similar cost structure as above, a single youth who waits 30 days for their treatment program could cost on average \$1,816.</p> <p><b>Treatment Cost:</b></p>



	<p>The 286 youth kept in the juvenile court will likely be disposed to juvenile treatment programs. Due to the seriousness of their offense, the Department can estimate that these youth would likely be placed in more intensive treatment programs. The Department does not wish to provide estimates on judicial behavior as to exactly what programs these youth would be disposed to. Instead, we have provided information below on the cost for treating one youth in the various programs offered by DJJ.</p> <p><u>Max Risk Residential</u> \$247 a day X Average length of stay 645 days = \$159,315 per youth</p> <p><u>High Risk Residential</u> \$247 a day X Average length of stay 347 days = \$85,709 per youth</p> <p><u>Nonsecure Residential</u> \$223 a day X Average length of stay 229 days = \$51,067 per youth</p> <p><u>Day Treatment Probation</u> \$97 a day X Average Length of Stay 183 days = \$17,751 per youth</p> <p>These above estimates do not take into account the cost of post commitment probation or transition services.</p> <p>For example, if even 100 youth were served with juvenile sanctions and placed in high risk residential, the cost could exceed \$8,570,900.</p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	Click or tap here to enter text.

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**Y ☒ N ☐

Revenues:	Residential treatment is contracted with private providers with oversight provided by the Department.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

**TECHNOLOGY IMPACT**

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

Click or tap here to enter text.

**FEDERAL IMPACT**

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

**ADDITIONAL COMMENTS**

Clarification will be needed to know whether the law applies only to youth who commit an offense after the effective date of the law, or also to youth who commit the offense before the effective date but a decision to direct file had not been made at the time of the effective date.

The bill, as written, does not allow for a state attorney to transfer a youth who is age 16 or 17 who has committed a non-violent felony to be transferred to adult court, but does allow for transfer of a youth on a misdemeanor if the youth has two or more prior adjudications/adjudications withheld, one of which is for a violent felony.

**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:

Line 133-34:

The term "violent felony" is not defined in chapter 985, but a definition appears in section 961.02(6) and 775.084, F.S. A direct reference or definition should be considered.

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/16/21

*Meeting Date*

640

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Ave

Phone 850-339-0075

*Street*

Tallahassee

FL

32301

Email idelgado@flaccb.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/2021  
Meeting Date

SB 640  
Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call

Phone \_\_\_\_\_

Street Tallahassee FL 32301

City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FI Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

640

Bill Number (if applicable)

Topic Prosecuting children as Adults

Amendment Barcode (if applicable)

Name Kristellys Estanga

Job Title Aide to city Commissioner

Address 406 W 8th Ave Phone 954 804 2000  
Street

Tallahassee FL 32303 Email Kristellys@gmail.com  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-2021

Meeting Date

640

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Jacqueline Miner

Job Title Student

Address 800 Basin St  
Street

Phone 813-943-5612

Tallahassee  
City

FL  
State

32304  
Zip

Email JackieMiner02@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

640

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

*Street*

Tallahassee

FL

32303

Email carrie.boyd@splcenter.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/16/21

*Meeting Date*

640

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

*Street*

Phone 850-488-6850

Tallahassee

FL

32301

*City*

*State*

*Zip*

Email ndamiels@flpda.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***



YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

3/16/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

640

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Name Pamela Burch Fort

Amendment Barcode (if applicable)

Job Title

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

City

State

Zip

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/16/21

*Meeting Date*

SB 640

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Jorge Chamizo

Job Title Attorney

Address 108 S Monroe St

Phone 850-681-0024

*Street*

Tallahassee

FL

32301

Email jorge@flapartners.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Association of Criminal Defense Lawyers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

640

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

*Street*

Tallahassee

FL

32308

Email Greg@WaypointStrat.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

T 12:30

CRIMINAL J

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

640

Bill Number (if applicable)

Topic PROSECUTING CHILDREN AS ADULTS

Amendment Barcode (if applicable)

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE

Phone 850 322 3317

Street

TALLY

FL

32303

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

640

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

C. Justice

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21  
Meeting Date

640  
Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Barbara DeBane

Job Title \_\_\_\_\_

Address 625 E Brevard St

Phone 251-4280

Tallahassee FL 32308  
City State Zip

Email barbadebane1@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

\* Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

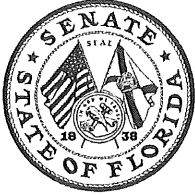
Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**



*The Florida Senate*

## Committee Agenda Request

Senator Bobby Powell  
2715 North Australian Avenue, Suite 105  
West Palm Beach Florida 33407

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 4, 2021

---

I respectfully request that **Senate Bill #640**, relating to Prosecuting Children as Adults, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in dark ink, appearing to read "Bobby Powell", is written over a horizontal line.

Senator Bobby Powell  
Florida Senate, District 30

Senator Jason Pizzo, Chair  
Committee on Criminal Justice  
510 Knott Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 932

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Wright

SUBJECT: Minor Time-Sharing for Parent Convicted/Adjudicated Delinquent of Specified Offense

DATE: March 15, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Cox	CF	<b>Fav/CS</b>
2.	Erickson	Jones	CJ	<b>Favorable</b>
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 932 amends s. 61.13, F.S., to prohibit a court from granting a parent time-sharing with his or her minor child if the parent has been convicted or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S. (offense criteria relevant to sexual offender registration), and at the time of the offense:

- The parent was 18 years of age or older; and
- The victim was under 18 years of age or the parent believed the victim was under 18 years of age.

The bill provides an exception allowing the court to grant time-sharing when it makes written findings that the parent poses no significant risk of harm to the child and that time-sharing is in the child's best interest.

To the extent that the bill results in additional litigation relating to the ability to have time-sharing rights, the bill may result in an increased workload on the state court system from additional or more lengthy hearings and an indeterminate fiscal impact on parents who must pay additional legal fees related to such hearings. See Section V. Fiscal Impact Section.

The bill is effective July 1, 2021.



## II. Present Situation:

### Parental Rights

The interest of parents in the care, custody, and control of their children is a recognized fundamental liberty protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. This fundamental liberty interest is rooted in the fundamental right of privacy from interference in making important decisions relating to marriage, family relationships, child rearing, and education.<sup>1</sup> The United States Supreme Court has explained the fundamental nature of this right is rooted in history and tradition:

The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.<sup>2</sup>

The Florida Supreme Court has recognized that under Art. I, s. 23 of the Florida Constitution, parents have a fundamental liberty interest in determining the care and upbringing of their children.<sup>3</sup> These rights may not be intruded upon absent a compelling state interest.<sup>4</sup> According to the Florida Supreme Court, when analyzing a statute that infringes on the fundamental right of privacy, the applicable standard of review requires that the statute survive the highest level of scrutiny:

The right of privacy is a fundamental right which we believe demands the compelling state interest standard. This test shifts the burden of proof to the state to justify an intrusion on privacy. The burden can be met by demonstrating that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least intrusive means.<sup>5</sup>

### Parental Time-Sharing

Parental time-sharing is the time, including overnights and holidays, which a minor child spends with each parent.<sup>6</sup> A parent's right to time-sharing is not absolute, and the Legislature may enact

<sup>1</sup> *Carey v. Population Svcs. Int'l*, 431 U.S. 678, 684-685 (1977) (recognizing the right of privacy in personal decisions relating to marriage, family relationships, child rearing, and education). *See Wisconsin v. Yoder*, 406 U.S. 205, 232-33 (1972) (holding a state law requiring that children attend school past eighth grade violates the parents' constitutional right to direct the religious upbringing of their children); *Parham v. J.R.*, 442 U.S. 584, 602 (1979) (recognizing the presumption that parents act in their children's best interest); *Meyer v. Nebraska*, 262 U.S. 390, 400-01 (1923) (affirming that the Constitution protects the preferences of the parent in education over those of the state); *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 534-35 (1925) (recognizing the right of parents to direct the upbringing of and education of their children).

<sup>2</sup> *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972).

<sup>3</sup> *Beagle v. Beagle*, 678 So.2d 1271, 1272 (Fla. 1996) (holding a state law violated a parent's constitutional right to privacy by imposing grandparent visitation rights over objection of the parent without evidence of harm to the child or other compelling state interest).

<sup>4</sup> *Id. See, e.g., Shevin v. Byron, Harless, Schaffer, Reid & Assocs., Inc.*, 379 So.2d 633, 637 (Fla. 1980) and *Belair v. Drew*, 776 So.2d 1105, 1106 (Fla. 5th DCA 2001).

<sup>5</sup> *Winfield v. Division of Pari-Mutuel Wagering, Dept. of Bus. Regulation*, 477 So.2d 544, 547 (Fla. 1985) (citations omitted).

<sup>6</sup> *See* s. 61.046(23), F.S. The schedule may be developed and agreed to by the parents of a minor child and approved by the court or established by the court if the parents cannot agree or if their agreed-upon schedule is not approved by the court.

a time-sharing policy when it affects the best interest of the child.<sup>7</sup> As a result of the constitutional right to a meaningful parent-child relationship, there must be competent, substantial evidence in the record that demonstrates that any restrictions or limitations on time-sharing are in the best interests of the child before those restrictions will be sustained.<sup>8</sup> Thus, where there is no evidence that the noncustodial parent is unfit, that extreme circumstances preclude visitation, or that visitation would adversely affect the welfare of the child, the trial court abuses its discretion in failing to provide visitation rights for that parent.<sup>9</sup> Moreover, restriction of visitation is generally disfavored, unless the restriction is necessary to protect the welfare of the child.<sup>10</sup>

Section 61.13(2), F.S., provides judges wide discretion in determining matters relating to parenting and time-sharing of minor children in actions under ch. 61, F.S., in accordance with the best interests of the child, while balancing the rights of parents. The court is required to determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).<sup>11</sup>

In establishing time-sharing, the court must make a determination of the best interests of the child by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to, the:

- Demonstrated capacity and disposition of each parent to facilitate and encourage a continuing parent-child relationship, honor the time-sharing schedule, and accommodate necessary changes.
- Anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.
- Demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child.
- Length of time the child has lived in a stable environment and the desirability of maintaining continuity.
- Geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- Mental health, physical health, and moral fitness of the parents.
- Home, school, and community record of the child.
- Reasonable preference of the child.
- Demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, the child's friends, teachers, and daily activities.

---

<sup>7</sup> See, e.g., *Mallick v. Mallick*, 2020 WL 6106287 (Fla. 2d DCA Oct. 16, 2020); *Bainbridge v. Pratt*, 168 So.3d 310 (Fla. 1st DCA 2011).

<sup>8</sup> *Miller v. Miller*, 302 So.3d 457 (Fla. 5th DCA 2020).

<sup>9</sup> *McArdle v. McArdle*, 753 So.2d 696 (Fla. 4th DCA 2000); *Johnston v. Boram*, 386 So.2d 1230 (Fla. 5th DCA 1980).

<sup>10</sup> See *Munoz v. Munoz*, 210 So.3d 227 (Fla. 2d DCA 2017); *Davis v. Lopez-Davis*, 162 So.3d 19 (Fla. 4th DCA 2014).

<sup>11</sup> Section 61.13(2)(c), F.S. The UCCJEA was developed by the Legal Resource Center on Violence Against Women, the National Center on State Courts, and the National Council of Juvenile and Family Court Judges (NCJFCJ) to address jurisdictional and enforcement issues in child custody cases. The NCJFCJ, *Uniform Child Custody Jurisdiction and Enforcement Act: Guide for Court Personnel and Judges*, July 18, 2018, available at <https://www.ncjfcj.org/publications/uniform-child-custody-jurisdiction-and-enforcement-act-guide-for-court-personnel-and-judges/> (last visited March 9, 2021).

- Demonstrated capacity and disposition of each parent to:
  - Provide a consistent routine; and
  - Communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has ever knowingly provided false information about such matters.
- Particular parenting tasks customarily performed by each parent, including the extent to which parenting responsibilities were undertaken by third parties.
- Demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.
- Demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.
- Capacity and disposition of each parent to protect the child from the ongoing litigation regarding child custody.
- Developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.<sup>12</sup>

Currently, Florida law does not expressly prohibit a sex offender from exercising time-sharing with his or her minor child unless there is a court order to the contrary.

Although current law requires the court to acknowledge in writing when it considers evidence of sexual violence in evaluating the best interests of the child,<sup>13</sup> it is possible to be classified as a sexual offender without committing a violent sexual act.<sup>14</sup> Therefore, under current law, a sexual offender who has not committed a violent sexual act may still be entitled to time-sharing with a minor child.

### ***Termination of Parental Rights***

Section 39.806, F.S., authorizes the Department of Children and Families (DCF) to file a petition for termination of parental rights (TPR) against both parents when they fail to remedy the family problems that brought a child into the dependency system.<sup>15</sup> Alternatively, the DCF may move to terminate only one of the parent's rights if it can prove certain grounds, such as incarceration, egregious conduct, chronic substance abuse, the conception of the child as a result of sexual battery, a conviction requiring the parent to register as a sexual predator, or an incarcerated parent who the court determined is a sexual predator in s. 775.084, F.S., or committed a sexual battery that constitutes a capital, life, or first degree felony in violation of s. 794.011, F.S.<sup>16</sup>

---

<sup>12</sup> Section 61.13(3)(a)-(t), F.S.

<sup>13</sup> Section 61.13(3)(m), F.S.

<sup>14</sup> For example, an offender might have been required to register as a sexual offender based on a felony conviction for video voyeurism. *See* s. 810.145, F.S.

<sup>15</sup> Section 39.8055, F.S.

<sup>16</sup> Section 39.806, F.S.

## Sexual Offenses

Sexual offenses enumerated under s. 943.0435(1)(h)1.a., F.S., include:

- Sexual misconduct with a person having a developmental disability (s. 393.135(2), F.S.);
- Sexual misconduct with a mental health patient by an employee (s. 394.4593(2), F.S.);
- Specified violations of kidnapping or falsely imprisoning a minor (s. 787.01 or s. 787.02, F.S.);<sup>17</sup>
- Luring or enticing a child, by a person with a prior sexual conviction (s. 787.025(2), F.S.);
- Human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.);
- Sexual battery (s. 794.011, excluding s. 794.011(10), F.S.);
- Unlawful sexual activity with a minor (s. 794.05, F.S.);
- Lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.);
- Video voyeurism, involving a minor victim (s. 810.145(8), F.S.);
- Lewd or lascivious offense on an elderly or disabled person (s. 825.1025, F.S.);
- Sexual performance by a child (s. 827.071, F.S.);
- Providing obscene materials to a minor (s. 847.0133, F.S.);
- Computer pornography involving a minor (s. 847.0135(2), F.S.);
- Soliciting a minor over the Internet (s. 847.0135(3), F.S.);
- Traveling to meet a minor (s. 847.0135(4), F.S.);
- Lewd or lascivious exhibition over the Internet (s. 847.0135(5), F.S.);
- Transmitting child pornography by electronic device or equipment (s. 847.0137, F.S.);
- Transmitting material harmful to a minor by electronic device (s. 847.0138, F.S.);
- Selling or buying a minor to engage in sexually explicit conduct (s. 847.0145, F.S.);
- Racketeering involving a sexual offense (s. 895.03, F.S.);
- Sexual misconduct with a forensic client (s. 916.1075(2), F.S.); and
- Sexual misconduct by an employee with a juvenile offender (s. 985.701(1), F.S.).

### *Florida's Sexual Offender Registration Laws*

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for classification as a sexual offender.<sup>18</sup> The registration laws also require reregistration and provide for public and community notification of certain information about sexual offenders. The laws span several different chapters and numerous statutes<sup>19</sup> and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families (DCF).

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;

<sup>17</sup> However, the Florida Supreme Court has held there must be a sexual element to the kidnapping or false imprisonment when the victim is a minor. *State v. Robinson*, 873 So.2d 1205 (Fla. 2004).

<sup>18</sup> Sections 775.21 and 943.0435, F.S.

<sup>19</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.<sup>20</sup>

Sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel. The FDLE, through its agency website, provides a searchable database that includes some of this information.<sup>21</sup> Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage. Registration requirements may differ based on a special status, e.g., the sexual offender is in the DOC's control or custody, under the DOC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

### III. Effect of Proposed Changes:

The bill amends s. 61.13, F.S., to prohibit a court from granting a parent time-sharing with his or her minor child if the parent has been convicted or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S. (offense criteria relevant to sexual offender registration), and at the time of the offense:

- The parent was 18 years of age or older; and
- The victim was under 18 years of age or the registrant believed the victim to be under 18 years of age.

However, the court may grant time-sharing if it makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interest of the child.

The bill is effective July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18, of the Florida Constitution.

<sup>20</sup> Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

<sup>21</sup> The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. See <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on March 9, 2021).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The Florida Supreme Court has recognized that under Art. I., s. 23 of the Florida Constitution, parents have a fundamental liberty interest in determining the care and upbringing of their children.<sup>22</sup> However, a parent's right to time-sharing is not absolute, and the Legislature may enact a time-sharing policy when it affects the best interest of the child.<sup>23</sup>

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill provides that the prohibition on granting time-sharing in specified instances to a parent does not apply if the court makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interest of the child. To the extent that this provision results in additional litigation related to the ability to be granted time-sharing rights, the bill may result in both parents involved in parenting plans and time-sharing agreements paying additional legal fees to litigate related to the time-sharing rights of the minor child or children.

**C. Government Sector Impact:**

The bill provides that the prohibition on granting time-sharing in specified instances to a parent does not apply if the court makes a specific finding in writing that the parent poses no significant risk of harm to the child and that time-sharing is in the best interest of the child. To the extent that this provision results in an increased workload to the courts from additional or more extensive hearings to make such determinations, the bill may result in an indeterminate fiscal impact on the state court system.

---

<sup>22</sup> *Beagle v. Beagle*, 678 So.2d 1271, 1275 (Fla. 1996).

<sup>23</sup> *See, e.g., Mallick v. Mallick*, 2020 WL 6106287 (Fla. 2d DCA Oct. 16, 2020); *Bainbridge v. Pratt*, 168 So.3d 310 (Fla. 1st DCA 2011).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 61.13 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on March 2, 2021:**

The committee substitute amends the bill to prohibit time-sharing with a minor child if the parent is convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., F.S., rather than prohibiting time-sharing if a parent is required to register as a sexual offender under s. 943.0435, F.S., or a sexual predator under s. 775.21, F.S.

**B. Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and  
Senator Wright

586-02349-21

2021932c1

A bill to be entitled

An act relating to minor time-sharing for parent  
convicted of or had adjudication withheld for a  
specified offense; amending s. 61.13, F.S.;  
prohibiting a court from granting time-sharing with a  
minor child to a parent under certain circumstances;  
providing an exception; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (2) of section  
61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing;  
powers of court.—

(2)

(c) The court shall determine all matters relating to  
parenting and time-sharing of each minor child of the parties in  
accordance with the best interests of the child and in  
accordance with the Uniform Child Custody Jurisdiction and  
Enforcement Act, except that modification of a parenting plan  
and time-sharing schedule requires a showing of a substantial,  
material, and unanticipated change of circumstances.

1. It is the public policy of this state that each minor  
child has frequent and continuing contact with both parents  
after the parents separate or the marriage of the parties is  
dissolved and to encourage parents to share the rights and  
responsibilities, and joys, of childrearing. There is no  
presumption for or against the father or mother of the child or  
for or against any specific time-sharing schedule when creating

586-02349-21

2021932c1

or modifying the parenting plan of the child.

2. The court shall order that the parental responsibility  
for a minor child be shared by both parents unless the court  
finds that shared parental responsibility would be detrimental  
to the child. Evidence that a parent has been convicted of a  
misdemeanor of the first degree or higher involving domestic  
violence, as defined in s. 741.28 and chapter 775, or meets the  
criteria of s. 39.806(1)(d), creates a rebuttable presumption of  
detriment to the child. If the presumption is not rebutted after  
the convicted parent is advised by the court that the  
presumption exists, shared parental responsibility, including  
time-sharing with the child, and decisions made regarding the  
child, may not be granted to the convicted parent. However, the  
convicted parent is not relieved of any obligation to provide  
financial support. If the court determines that shared parental  
responsibility would be detrimental to the child, it may order  
sole parental responsibility and make such arrangements for  
time-sharing as specified in the parenting plan as will best  
protect the child or abused spouse from further harm. Whether or  
not there is a conviction of any offense of domestic violence or  
child abuse or the existence of an injunction for protection  
against domestic violence, the court shall consider evidence of  
domestic violence or child abuse as evidence of detriment to the  
child.

a. In ordering shared parental responsibility, the court  
may consider the expressed desires of the parents and may grant  
to one party the ultimate responsibility over specific aspects  
of the child's welfare or may divide those responsibilities  
between the parties based on the best interests of the child.



586-02349-21

2021932c1

Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

3.a. The court may not grant a parent time-sharing with his or her minor child if the parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a. and at the time of the offense:

(I) The parent was 18 years of age or older; and

(II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

b. Notwithstanding sub-subparagraph a., the court may grant time-sharing to the parent if the court makes a specific finding in writing that he or she poses no significant risk of harm to the child and that time-sharing is in the best interests of the child.

4.3- Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

586-02349-21

2021932c1

88 Section 2. This act shall take effect July 1, 2021.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and  
Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

**SENATOR TOM A. WRIGHT**  
14th District

March 5, 2021

The Honorable Jason W. B. Pizzo  
405, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 932 – Minor Time-sharing for Parent Convicted of or Had Adjudication  
Withheld for a Specified Offense

Dear Chair Pizzo:

Senate Bill 932, relating to Minor Time-sharing for Parent Convicted of or Had Adjudication  
Withheld for a Specified Offense has been referred to the Committee on Criminal Justice. I am  
requesting your consideration on placing SB 932 on your next agenda. Should you need any  
additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Lauren Jones, Staff Director of the Committee on Criminal Justice  
Sue Arnold, Administrative Assistant of the Committee on Criminal Justice

### REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 936

INTRODUCER: Committee on Military and Veterans Affairs, Space and Domestic Security and Senators Wright and Farmer

SUBJECT: Recovery of Spaceflight Assets

DATE: March 15, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Caldwell	MS	<b>Fav/CS</b>
2.	Cellon	Jones	CJ	<b>Favorable</b>
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 936 creates s. 331.502, F.S., which provides that a spaceflight entity retains ownership over a spaceflight asset until the entity expressly abandons ownership of the asset. Spaceflight assets include any item or part of an item that is used in spaceflight activities, including launch and reentry.

The bill prohibits a person from appropriating a spaceflight asset that he or she finds to his or her use. Instead, the person must report the asset's location to law enforcement. Then, the law enforcement agency must make a reasonable effort to identify the asset's owner and promptly notify the owner of any information relevant to recovering the asset.

If a law enforcement officer determines that exigent circumstances require that a spaceflight asset's owner enter private property to recover the asset, the officer may authorize the entry. Exigent circumstances include a situation in which failure to enter the property could result in immediate danger to public safety or destruction of the asset.

The bill provides that a person who finds a spaceflight asset and knowingly uses it or refuses to surrender it commits a first degree misdemeanor, punishable by imprisonment for up to 1 year and a fine not exceeding \$1,000. Moreover, the person must pay restitution to the owner.

The bill also amends s. 331.501, F.S., to update cross-references to federal law.

The bill may result in a positive fiscal impact on the private sector and a negative fiscal impact for the government sector. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Spaceflight Assets in Florida

Florida has the second-highest number of aviation and aerospace establishments of any state.<sup>1</sup> It is home to over 17,144 aerospace-related companies and more than 130,000 aerospace-related employees.<sup>2</sup> According to the Space Coast Office of Tourism, 31 launches took off from Cape Canaveral in 2020, and one U.S. Space Force official estimates there could be as many as 53 launches in 2021.<sup>3</sup>

### Asset Recovery

In the past, officials have faced setbacks when attempting to recover spaceflight assets. Debris fell across eastern Texas and western Louisiana when the Space Shuttle Columbia tragically broke apart while re-entering the Earth's atmosphere in 2003.<sup>4</sup> Within hours of the Columbia disaster, debris from the shuttle was listed for sale on eBay.<sup>5</sup> Similarly, members of the public attempted to sell debris from the Challenger after it exploded off the coast of Cape Canaveral.<sup>6</sup>

As a result of the high number of space operations launching from and returning to the state, spaceflight assets often return to the land within or water surrounding the state. Private spaceflight entities place an emphasis on reusability, turning to technological advances to aid in rocket and spacecraft recovery.<sup>7</sup> One company, for example, has tested mid-air recovery of a first-stage rocket, part of the company's plan to reuse the rocket.<sup>8</sup>

---

<sup>1</sup> Space Florida, *Why Florida + Facts and Figures*, available at <https://www.spaceflorida.gov/> (last visited March 11, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> Steven Walker, *The sky's the limit: Space Coast expects another strong year of launches in 2021*, Orlando Sentinel (January 20, 2021), available at <http://www.orlandosentinel.com/space/os-bz-space-coast-launches-future-20210120-dhet5rilz5fnvoajklcwftbm2m-story.html> (last visited March 11, 2021).

<sup>4</sup> Federal Bureau of Investigation, *Recovering the Space Shuttle Columbia*, (February 1, 2018), available at <https://www.fbi.gov/news/stories/15th-anniversary-of-space-shuttle-columbia-disaster> (last visited March 11, 2021).

<sup>5</sup> 6 Lee Dembart, *Columbia memorabilia up for bids on auction site*, International Herald Tribune, (February 3, 2003), available at <https://www.nytimes.com/2003/02/03/news/columbia-memorabilia-up-for-bids-on-auction-site.html> (last visited March 11, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> Irene Klotz, *Extra portion of SpaceX rocket recovered from launch, Musk says*, Reuters, Aerospace and Defense, (March 31, 2017), available at <https://www.reuters.com/article/us-space-spacex-recovery/extra-portion-of-spacex-rocket-recovered-from-launch-musk-says-idUSKBN1722LD> (last visited March 11, 2021).

<sup>8</sup> Jeff Foust, *Rocket Lab tests Electron stage recovery*, SPACENEWS, (April 8, 2020), available at <https://spacenews.com/rocket-lab-tests-electron-stage-recovery/> (last visited March 11, 2021).

## Lost or Abandoned Property

### *On Public Property*

Chapter 705, F.S., relating to lost or abandoned property, provides specific procedures for reporting, disposing of, and ascertaining ownership of lost or abandoned property. The procedures outlined in s. 705.103, F.S., apply only to lost and abandoned property found on public property and, in some cases, places open to the public.<sup>9</sup> Finders of lost or abandoned property and law enforcement are subject to procedures outlined in ch. 705, F.S., when attempting to ascertain the property's rightful owner. If the rightful owner does not come forward, the finder of the lost or abandoned property may claim the property so long as they follow the procedures outlined in ch. 705, F.S.

Any person who finds lost or abandoned property on public property has a duty to report the description and location of the property to a law enforcement officer.<sup>10</sup> If the law enforcement officer taking a report cannot identify or locate the rightful owner of reported lost or abandoned property, the law enforcement officer must ascertain whether the person reporting the property wishes to make a claim to the property.<sup>11</sup> If so, that person must pay the law enforcement agency a reasonable sum of money to cover the agency's costs for transportation, storage, and publication of notice.<sup>12</sup> If the rightful owner of the property comes forward, this sum is reimbursed to the finder of the property by the rightful owner reclaiming the property.<sup>13</sup>

A law enforcement officer who ascertains that lost or abandoned property is present on public property has a duty to make a reasonable attempt to ascertain the rightful owner and take such property into custody if the property is of such a nature that it can easily be removed.<sup>14</sup> If lost or abandoned property is of such a nature that it cannot be easily removed, the law enforcement officer places a notice on the item, which must comply with the requirements set forth in s. 705.103, F.S.<sup>15</sup> If the owner or any person interested in the lost or abandoned property has not removed the property within five days of the notice being posted, or shown reasonable cause as to why they have not done so, law enforcement:

- May retain any or all of the abandoned property for its own use or for use by the state or a local government, trade such property to another unit of local government or a state agency, donate the property to a charitable organization, sell the property, or notify the appropriate removal service.<sup>16</sup>
- Has a duty to take custody of the lost property, retain custody of such property for 90 days, and publish notice of the intended disposition of the property during the first 45 days of the 90-day timeline.<sup>17</sup>

---

<sup>9</sup> 93-30 Fla. Op. Att'y Gen. (1993).

<sup>10</sup> Section 705.102(1), F.S.

<sup>11</sup> Section 705.102(2), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Section 705.103(1), F.S.

<sup>15</sup> This notice shall be in substantially the same form as the template provided in s. 705.103, F.S., requiring that the property be removed within 5 days. Section 705.103(2), F.S.

<sup>16</sup> Section 705.103(2)(a), F.S.

<sup>17</sup> Section 705.103(2)(b), F.S.

The rightful owner of lost or abandoned property recovered from public property is liable to the law enforcement agency for costs of transportation and storage of such property and the law enforcement agency's cost for publication of notice.<sup>18</sup> If the rightful owner does not pay such costs within 30 days of making a claim to the property, title to the property vests in the law enforcement agency.<sup>19</sup>

### ***On Private Property***

Lost or abandoned property found on private property is not covered by s. 705.103, F.S., and is subject to the principles of the common law of property.<sup>20</sup> Under common law, both the rightful owner and the finder of lost property have a protectable and enforceable interest in the property.<sup>21</sup> The finder of personal property may protect his or her interest in the property and may defend the property against all others, other than the true owner of the property.<sup>22</sup>

Section 78.01, F.S., provides for the right of replevin, whereby "[a]ny person whose personal property is wrongfully detained by any other person or officer may have a writ of replevin to recover said personal property and any damages sustained by reason of the wrongful taking or detention as herein provided."<sup>23</sup>

Absent any statutory obligation to follow specific procedures to ascertain the rightful owner, a person who finds personal property on private property has few obligations under the common law.<sup>24</sup> Further, Florida provides no statutory obligation for local law enforcement to participate in the removal, transportation, or storage of personal property found on private property, leaving the decision to engage in such matters up to municipalities and local law enforcement agencies.<sup>25</sup>

### **Theft**

A person who unlawfully appropriates lost or abandoned property for his or her own use or refuses to deliver such property when required to do so commits theft.<sup>26</sup> A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.<sup>27</sup>

Section 812.014, F.S., defines theft offenses and generally categorizes the offense level based on the value of the property stolen. Whether a theft is a misdemeanor or a felony may also depend

---

<sup>18</sup> Section 705.103(7), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> 93-30 Fla. Op. Att'y Gen. (1993).

<sup>21</sup> 76-101 Fla. Op. Att'y Gen. (1976).

<sup>22</sup> *Id.*

<sup>23</sup> Section 78.01, F.S.

<sup>24</sup> 93-30 Fla. Op. Att'y Gen. (1993).

<sup>25</sup> *Id.*

<sup>26</sup> Section 705.102(4), F.S.

<sup>27</sup> Section 812.014(1), F.S.

on the offender's prior history of theft convictions or the type of property stolen. In terms of severity, the two main categories of theft are grand theft and petit theft.<sup>28</sup>

### ***Grand Theft***

Grand theft is a felony of the first, second, or third degree, depending on the value of the item stolen.<sup>29</sup> The value range for each felony degree and the corresponding penalties are set forth in this chart:

Degrees of Grand Theft		
First Degree	\$100,000 or more <sup>30</sup>	Imprisonment for up to 30 years and a fine of up to \$10,000 <sup>31</sup>
Second Degree	\$20,000 or more, but less than \$100,000 <sup>32</sup>	Imprisonment for up to 15 years and a fine of up to \$10,000 <sup>33</sup>
Third Degree	\$750 or more, but less than \$20,000 <sup>34</sup>	Imprisonment for up to 5 years and a fine of up to \$5,000 <sup>35</sup>

In some cases, the penalties may be more severe than those set forth in the above chart, such as in the case of a "habitual offender."<sup>36</sup>

### ***Petit Theft***

Petit theft is a misdemeanor of the first<sup>37</sup> or second degree,<sup>38</sup> depending on the value of the item stolen or the number of prior offenses.<sup>39</sup> A theft of an item valued at \$100 or more, but less than \$750, is first degree misdemeanor petit theft.<sup>40</sup> A person commits a second degree misdemeanor petit theft when he or she commits a theft that does not meet the criteria of any of the other degrees of theft set forth in statute.<sup>41</sup>

<sup>28</sup> Section 812.014(2) and (3), F.S.

<sup>29</sup> Section 812.014(2), F.S. The felony degree of grand theft can also be determined by other circumstances, such as the nature of the item or the circumstances of the theft.

<sup>30</sup> Section 812.014(2)(a), F.S.

<sup>31</sup> Sections 775.082(3)(b) and 775.083(1)(b), F.S.

<sup>32</sup> Section 812.014(2)(b), F.S.

<sup>33</sup> Sections 775.082(3)(d) and 775.083(1)(b), F.S.

<sup>34</sup> Section 812.014(2)(c), F.S.

<sup>35</sup> Section 775.082 and 775.083(1)(c), F.S.

<sup>36</sup> See s. 775.084, F.S.

<sup>37</sup> A first degree misdemeanor is punishable by imprisonment for up to 1 year and a fine of up to \$1,000. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>38</sup> A second degree misdemeanor is punishable by imprisonment for up to 60 days and a fine of up to \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

<sup>39</sup> See s. 812.014(2)(e) and (3)(a), F.S.

<sup>40</sup> Section 812.014(2)(e), F.S.

<sup>41</sup> Section 812.014(3)(a), F.S.

### **Section 331.501, F.S., Federal Law References**

Section 331.501, F.S., provides an exemption from liability for a spaceflight entity<sup>42</sup> conducting launch or reentry services from the death or injury of a spaceflight participant<sup>43</sup> resulting from the risks inherent with space travel. Subsequent to the creation of s. 331.501, F.S., in 2008, the federal law which the statute references was amended to exclude a “government astronaut” from the definition of “space flight participant,” and moved from 49 U.S.C. s. 70102 to 51 U.S.C. s. 50902.<sup>44</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 331.502, F.S., which contains definitions, policies, and procedures related to spaceflight assets. The bill defines a spaceflight asset as “any item, or any part of an item, owned by a spaceflight entity which is used in spaceflight activities, including crewed and uncrewed spacecraft, satellites, launch vehicles, parachutes and other landing aids, and any ancillary equipment that was attached to the launch vehicle during launch, orbit, reentry, or recovery.”

The bill provides that a spaceflight entity retains ownership over a spaceflight asset until the entity expressly abandons ownership of the asset.

Under the bill, any person who finds an item reasonably identifiable as a spaceflight asset is required to report the description and location of the asset to a law enforcement agency with jurisdiction over that location, regardless of whether the asset is found on public or private property. The bill requires any law enforcement agency that receives a report of a spaceflight asset to make a reasonable effort to identify the owner of the asset and promptly notify the owner of any information relevant to the recovery of the asset.

The bill provides that a law enforcement officer may authorize the owner of a spaceflight asset to enter private property to recover the asset when exigent circumstances<sup>45</sup> exist to justify the entry, including when failure to timely recover the asset may result in:

- An immediate danger to public safety; or
- Damage to, or destruction of the spaceflight asset.

The bill creates the crime of misappropriation of a spaceflight asset, a misdemeanor of the first degree. Under this provision, a person commits misappropriation of a spaceflight asset if he or she knowingly appropriates an item reasonably identifiable as a spaceflight asset to his or her own use, or to the use of any other person not entitled to the asset, or refuses to surrender a spaceflight asset to a law enforcement officer or the owner of the asset upon demand.

---

<sup>42</sup> “Spaceflight entity” means any public or private entity holding a United States Federal Aviation Administration launch, reentry, operator, or launch site license for spaceflight activities. The term also includes any manufacturer or supplier of components, services, or vehicles that have been reviewed by the United States Federal Aviation Administration as part of issuing such a license, permit, or authorization. Section 331.501(1)(c), F.S.

<sup>43</sup> “Spaceflight participant” means an individual, who is not crew or a government astronaut, carried within a launch vehicle or reentry vehicle. 51 U.S.C. 50902(20).

<sup>44</sup> FAA Reauthorization Act of 2018, PL 115-254, October 5, 2018; 51 U.S.C. 50902(20).

<sup>45</sup> The exigent circumstances doctrine is primarily used to overcome a warrant requirement and allow law enforcement onto or into private property in emergency or dangerous situations. *See Riggs v. State*, 918 So. 2d 274, 278 (Fla. 2005).



The bill requires a court to order any person convicted of misappropriation of a spaceflight asset to pay full restitution to the owner of the asset if, as a result of the misappropriation, the asset is damaged or cannot be recovered.

The bill updates cross-references to the United States Code defining the terms “participant” and “spaceflight activities,” which moved from 49 U.S.C. s. 70102 to 51 U.S.C. s. 50902. Although the bill does not make substantive changes to s. 331.501, F.S., by updating the definition of “participant,” the bill excludes the potential death or injury suffered by a government astronaut from the immunity protections enjoyed by a spaceflight entity.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill may have a positive fiscal impact as the bill helps safeguard expensive spaceflight assets from theft, including theft of proprietary technology and intellectual property that could be discovered by examining a spaceflight asset.

**C. Government Sector Impact:**

The bill may have positive indeterminate (i.e. unquantifiable increase) jail bed impact on municipalities and county law enforcement agencies because it creates a new misdemeanor offense.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 331.501 of the Florida Statutes.

This bill creates section 331.502 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Military and Veterans Affairs, Space, and Domestic Security on March 1, 2021:**

The committee substitute:

- Protects all “spaceflight assets,” instead of protecting only a space vehicle and its parts;
- Defines spaceflight asset to include anything involved in the launch, orbit, or reentry of a spacecraft;
- Provides that the owner of a spaceflight asset retains ownership over the asset until the entity expressly abandons it;
- Removes the bill’s authorization for law enforcement to require a person who finds a spaceflight asset to bring it to the owner or to the law enforcement agency;
- Creates the crime of “misappropriation of a spaceflight asset,” a first degree misdemeanor;
- Describes misappropriation of a spaceflight asset as appropriating a spaceflight asset to that person’s use or the use of another, or as the refusal to surrender the asset to a law enforcement officer or the asset’s owner upon command; and
- Requires a court to order a person guilty of misappropriation of a spaceflight asset to pay restitution to the asset’s owner for any damage the person caused.

B. Amendments:

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senators Wright and Farmer

583-02311-21

2021936c1

A bill to be entitled

An act relating to recovery of spaceflight assets; creating s. 331.502, F.S.; defining terms; providing that a spaceflight entity retains ownership of a spaceflight asset after launch or upon reentry; requiring a person who finds an item reasonably identifiable as a spaceflight asset to report the description and location of the asset to law enforcement; requiring a law enforcement agency to make reasonable efforts to identify and notify the owner of a spaceflight asset; authorizing the owner of a spaceflight asset to enter private property under specified circumstances; prohibiting a person from appropriating a spaceflight asset to his or her own use or refusing to surrender a spaceflight asset to law enforcement or the owner; providing criminal penalties; amending s. 331.501, F.S.; updating references to federal provisions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 331.502, Florida Statutes, is created to read:

331.502 Recovery of spaceflight assets.—

(1) As used in this section, the term:

(a) "Launch" has the same meaning as provided in 51 U.S.C. 50902.

(b) "Law enforcement agency" has the same meaning as

Page 1 of 3

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

583-02311-21

2021936c1

provided in s. 908.102.

(c) "Law enforcement officer" has the same meaning as provided in s. 943.10.

(d) "Reentry" has the same meaning as provided in 51 U.S.C. 50902.

(e) "Spaceflight activities" and "spaceflight entity" have the same meanings as provided in s. 331.501(1).

(f) "Spaceflight asset" means any item, or any part of an item, owned by a spaceflight entity which is used in spaceflight activities, including crewed and uncrewed capsules, launch vehicles, parachutes and other landing aids, and any ancillary equipment that was attached to the launch vehicle during launch, orbit, or reentry.

(2) A spaceflight entity retains ownership over a spaceflight asset following a launch or reentry, regardless of the physical condition or location of a spaceflight asset, unless or until such time the spaceflight entity expressly indicates its intent to abandon the asset.

(3) (a) A person who locates any item reasonably identifiable as a spaceflight asset must report the description and location of the spaceflight asset to a law enforcement agency having jurisdiction over the location.

(b) A law enforcement agency that receives a report under this subsection must make a reasonable effort to identify the owner of the spaceflight asset and promptly notify the owner of any information relevant to the recovery of the spaceflight asset.

(4) The owner of a spaceflight asset may enter private property to recover a spaceflight asset if a law enforcement

Page 2 of 3

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

583-02311-21

2021936c1

59 officer authorizes such entry after determining that exigent  
60 circumstances exist. Exigent circumstances may include, but are  
61 not limited to, a determination that a failure to timely recover  
62 the spaceflight asset may result in an immediate danger to  
63 public safety or damage to, or destruction of, the spaceflight  
64 asset.

65 (5) A person may not knowingly appropriate an item  
66 reasonably identifiable as a spaceflight asset to his or her own  
67 use, or to the use of any other person not entitled to the  
68 spaceflight asset, or refuse to surrender a spaceflight asset to  
69 a law enforcement officer or the owner upon demand. A person who  
70 violates this subsection commits misappropriation of a  
71 spaceflight asset, a misdemeanor of the first degree, punishable  
72 as provided in s. 775.082 or s. 775.083. A court shall order any  
73 person convicted of violating this subsection to pay restitution  
74 to the owner of the spaceflight asset if, as a result of the  
75 misappropriation of a spaceflight asset, the asset is damaged or  
76 cannot be recovered.

77 Section 2. Paragraphs (a) and (b) of subsection (1) of  
78 section 331.501, Florida Statutes, are amended to read:

79 331.501 Spaceflight; informed consent.—

80 (1) For purposes of this section, the term:

81 (a) "Participant" means any spaceflight participant as that  
82 term is defined in 51 U.S.C. s. 50902 ~~49 U.S.C. s. 70102~~.

83 (b) "Spaceflight activities" means launch services or  
84 reentry services as those terms are defined in 51 U.S.C. s.  
85 50902 ~~49 U.S.C. s. 70102~~.

86 Section 3. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21  
Meeting Date

93601  
Bill Number (if applicable)

Topic SPACE FLIGHT ASSETS

Amendment Barcode (if applicable)

Name JOHNATHAN SITARKEY

Job Title Pres. of CAPITOL ALLIANCE GROUP

Address 100 E COLLEGE AVE #1110  
Street

Phone 224 1060

TALLAHASSEE FL 32301  
City State Zip

Email JOHNATHAN@CAPITOLALLIANCEGROUP.COM

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPACEX

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and  
Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

**SENATOR TOM A. WRIGHT**  
14th District

March 5, 2021

The Honorable Jason W. B. Pizzo  
405, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 936 – Recovery of Spaceflight Assets

Dear Chair Pizzo:

Senate Bill 936, relating to Recovery of Spaceflight Assets has been referred to the Committee on Criminal Justice. I am requesting your consideration on placing SB 936 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Lauren Jones, Staff Director of the Committee on Criminal Justice  
Sue Arnold, Administrative Assistant of the Committee on Criminal Justice

### REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 1608

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Protecting Consumers Against Pandemic-related Fraud

DATE: March 16, 2021

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Jones	CJ	Fav/CS
2. _____	_____	JU	_____
3. _____	_____	RC	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1608 provides that it is a third degree felony to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.

The bill also provides that it is a third degree felony to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information regarding the availability of or access to a vaccine for COVID-19 or a vaccine for any other pandemic disease in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain another person's personal identification information, or to obtain or receive any money or other valuable consideration.

A second or subsequent violation of the previously-described offenses is a second degree felony. Prosecution for either offense may be brought on behalf of the state by any state attorney or by the statewide prosecutor. Further, if the Attorney General reasonably believes that a person has committed either offense, the Attorney General may institute a civil action for the violation or to prevent the violation. An action for relief may include a permanent or temporary injunction, a restraining order, or any other appropriate order.



The bill also amends the offense severity level ranking chart of the Criminal Punishment Code to rank the new offenses.

The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

## II. Present Situation:

### COVID-19

A pandemic is an "[e]vent in which a disease spreads across several countries and affects a large number of people."<sup>1</sup> The most severe pandemic in recent history occurred in 1918 from a strain of the H1N1 influenza virus (H1N1) with genes of avian origin, and killed approximately 50 million people worldwide.<sup>2</sup> Prior to 2019, the most recent pandemic occurred in 2009 when a new strain of H1N1 caused the "swine flu," killing between 151,700 and 575,400 people worldwide during the first year it circulated.<sup>3</sup>

Coronaviruses are a family of viruses that can cause upper-respiratory tract illnesses. In the past, small outbreaks of coronaviruses have occurred in the United States (U.S.), including an outbreak of the SARS coronavirus in November 2002, and the MERS coronavirus in September 2012. Most recently, in December 2019, an outbreak of a new strain of coronavirus, called Severe Acute Respiratory Syndrome Coronavirus 2, emerged in China. The disease caused by this strain of the coronavirus, coronavirus disease 2019 (COVID-19), quickly spread worldwide.<sup>4</sup> COVID-19 causes a wide range of symptoms including fever, cough, difficulty breathing, fatigue, loss of taste or smell, sore throat, and congestion or runny nose. Older adults and people who have severe underlying medical conditions like heart or lung disease or diabetes seem to be at higher risk for developing more serious complications from COVID-19 illness.<sup>5</sup>

---

<sup>1</sup> *COVID-19 (Identifying the source of the outbreak)* (July 1, 2020), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/about-epidemiology/identifying-source-outbreak.html#:~:text=Pandemic%3A%20Event%20in%20which,large%20number%20of%20people> (last visited March 12, 2021).

<sup>2</sup> *Influenza (Flu) (1918 Pandemic (H1N1 virus))*, (March 20, 2019), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/flu/pandemic-resources/1918-pandemic-h1n1.html> (last visited March 10, 2021).

<sup>3</sup> *Influenza (Flu) (2009 H1N1 Pandemic (H1N1pdm09 virus))* (June 11, 2019), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html> (last visited March 10, 2021).

<sup>4</sup> *Coronaviruses*, National Institute of Allergy and Infectious Diseases, available at <https://www.niaid.nih.gov/diseases-conditions/coronaviruses> (last visited March 10, 2021); *Naming the coronavirus disease (COVID-19) and the virus that causes it*, World Health Organization, available at [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it) (last visited March 10, 2021).

<sup>5</sup> *COVID-19 (Symptoms of Coronavirus)* (Feb. 22, 2021), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (last visited March 10, 2021).

The U.S. reported its first known case of COVID-19 in January 2020,<sup>6</sup> and its first known death in February 2020.<sup>7</sup> In March 2020, Florida reported its first known COVID-19 case and death.<sup>8</sup> On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.<sup>9</sup>

In response to the COVID-19 pandemic, the federal government initiated “Operation Warp Speed” and a partnership was formed among the Department of Health and Human Services, the Centers for Disease Control and Prevention (CDC), the National Institutes of Health, the Biomedical Advanced Research and Development Authority, and the Department of Defense. These agencies and entities began to strategize how to accelerate the development, manufacture, and distribution of COVID-19 countermeasures, including vaccines, therapeutics, and diagnostics.<sup>10</sup>

The CDC issued social distancing guidelines and instructions for wearing face coverings.<sup>11</sup> In an effort to limit the spread of COVID-19, Florida Governor DeSantis issued a series of executive orders<sup>12</sup> declaring a public health emergency.<sup>13</sup> Florida also listed personal protective equipment, sanitizing and disinfecting supplies, and COVID-19 test kits as essential commodities.<sup>14</sup>

### Personal Protective Equipment

“Personal protective equipment” (PPE) refers to protective clothing, helmets, gloves, face shields, goggles, facemasks, respirators, or other equipment designed to protect a person from injury or the spread of infection or illness. PPE is commonly used in health care settings to act as a barrier between infectious materials such as viral and bacterial contaminants and a person’s skin, mouth, nose, or eyes, to block transmission of contaminants from blood, bodily fluids, or

---

<sup>6</sup> Michelle L. Holshue, M.P.H., *First case of 2019 novel coronavirus in the United States* (March 5, 2020), *N Engl J Med* 2020; 382:929-936, available at <https://www.nejm.org/doi/full/10.1056/NEJMoa2001191> (last visited March 10, 2021).

<sup>7</sup> *Washington state reports first COVID-19 death* (Feb. 29, 2020), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/media/releases/2020/s0229-COVID-19-first-death.html> (last visited March 8, 2021).

<sup>8</sup> Steve Patrick, *From 1st cases to 1.9 million: 1 year of COVID-19 in Florida* (March 1, 2021), News4JAX, available at <https://www.news4jax.com/news/florida/2021/03/01/from-1st-cases-to-19-million-1-year-of-covid-19-in-florida/> (last visited March 10, 2021).

<sup>9</sup> *WHO Director-General’s opening remarks at the media briefing on COVID-19* (March 11, 2020), World Health Organization, available at <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last visited March 10, 2021).

<sup>10</sup> *Fact Sheet: Explaining Operation Warp Speed*, U.S. Department of Health & Human Services, available at <https://health.mo.gov/living/healthcondiseases/communicable/novel-coronavirus-lpha/pdf/fact-sheet-operation-warp-speed.pdf> (last visited March 10, 2021).

<sup>11</sup> *COVID-19 (Social Distancing)* (Nov. 17, 2020), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html> (last visited March 8, 2021).

<sup>12</sup> *See 2020 Executive Orders*, Office of the Governor, available at <https://www.flgov.com/2020-executive-orders/> (last visited March 10, 2021).

<sup>13</sup> Fla. Exec. Order No. 20-51 (March 1, 2020), Office of the Governor, available at [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-51.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-51.pdf) (last visited March 10, 2021).

<sup>14</sup> *COVID-19 Resources to Stay Informed*, Office of the Attorney General, available at <http://www.myfloridalegal.com/covid19> (last visited March 10, 2021).

respiratory secretions. PPE is also used to protect patients who are at high risk for contracting infections brought in by visitors and healthcare workers.<sup>15</sup>

The COVID-19 pandemic increased the need for PPE for healthcare workers, patients, and the general public, resulting in PPE shortages nationwide. Some healthcare facilities were unable to access appropriate PPE, forcing them to identify alternative means to protect healthcare workers and provide adequate patient care.<sup>16</sup>

According to the Department of Homeland Security, more than 19,000 new websites selling PPE emerged as COVID-19 began to spread in the U.S., resulting in numerous reports of sites taking orders, accepting payment, and failing to deliver products.<sup>17</sup> In April 2020, a Georgia man was arrested after making a series of fraudulent misrepresentations to secure \$750 million from the Department of Veterans Affairs for 125 million facemasks and other PPE, knowing he was unable to fulfill the orders.<sup>18</sup> In January 2021, a Philadelphia man was arrested after fraudulently claiming to be a PPE provider and entering into agreements for over \$700 million to provide PPE to the City of New York.<sup>19</sup>

Florida's Attorney General (AG) has issued numerous consumer alerts warning Floridians about emerging COVID-19 related scams, including one in May 2020, urging Floridians to be on the lookout for fraudulent websites purporting to sell PPE.<sup>20</sup> As of December 2020, the Better Business Bureau had received 96 complaints in Florida related to COVID-19.<sup>21</sup>

### COVID-19 Vaccine

In December 2020, the Food and Drug Administration (FDA) granted Pfizer/BioNTech's and Moderna's COVID-19 vaccines emergency use authorization.<sup>22</sup> On February 27, 2021, the FDA

---

<sup>15</sup> *Personal Protective Equipment for Infection Control* (Feb. 10, 2021), U.S. Food and Drug Administration, available at <https://www.fda.gov/medical-devices/general-hospital-devices-and-supplies/personal-protective-equipment-infection-control> (last visited March 10, 2021).

<sup>16</sup> *Strategies for Optimizing PPE Supplies During Shortages*, COCA Now, Centers for Disease Control and Prevention, available at <https://emergency.cdc.gov/newsletters/coca/010521.htm> (last visited March 10, 2021).

<sup>17</sup> *Consumer Alert: New Websites Selling PPE Take Money, Don't Deliver Gear* (May 14, 2020), Office of the Attorney General, available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/DD06CDD09BE8587B85258568004EC790> (last visited March 10, 2021).

<sup>18</sup> Johnny Diaz and Aimee Ortiz, *Man Charged in Scheme to Sell 125 Million Nonexistent Masks* (Apr. 11, 2020), The New York Times, available at <https://www.nytimes.com/2020/04/11/us/coronavirus-face-mask-fraud-christopher-parris.html> (last visited March 10, 2021).

<sup>19</sup> Philadelphia Man Arrested for COVID-19 PPE Fraud (Jan. 20, 2021), U.S. Attorney's Office, District of New Jersey, available at <https://www.justice.gov/usao-nj/pr/philadelphia-man-arrested-covid-19-ppe-fraud> (last visited March 10, 2021).

<sup>20</sup> *VIDEO CONSUMER ALERT: New Websites Selling PPE Take Money, Don't Deliver Gear* (May 14, 2021), Office of the Attorney General available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/DD06CDD09BE8587B85258568004EC790> (last visited March 10, 2021).

<sup>21</sup> Merris Badcock, *COVID-19 Vaccine Scams at Center of New Crime-Fighting Effort* (Dec. 7, 2020), ClickOrlando.com (Graham Media Group), available at <https://www.clickorlando.com/news/local/2020/12/08/covid-19-vaccine-scams-at-center-of-new-crime-fighting-effort/> (last visited March 10, 2021).

<sup>22</sup> *Pfizer-BioNTech COVID-19 Vaccine*, (Feb. 3, 2021), U.S. Food and Drug Administration, available at <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/pfizer-biontech-covid-19-vaccine> (last visited March 10, 2021). Emergency use authorization is a mechanism for facilitating the availability and use of medical countermeasures, such as vaccines, during public health emergencies. *See Emergency Use Authorization for*

granted emergency use authorization to Janssen Biotech Inc., a Janssen Pharmaceutical Company of Johnson & Johnson, to distribute the Janssen COVID-19 vaccine in the United States.<sup>23</sup>

Governor DeSantis recently issued an executive order, effective March 9, 2021, which updates an earlier issued executive order on vaccine administration.<sup>24</sup> This updated order provides that, during this first phase of vaccine administration, all providers administering any COVID-19 vaccine shall only vaccinate the following populations:

- Long-term care facility residents and staff;
- Persons 60 years of age and older;
- Health care personnel with direct patient contact;
- K-12 school employees 50 years of age and older;
- Sworn law enforcement officers 50 years of age and older; and
- Firefighters 50 years of age and older.<sup>25</sup>

The executive order further provides that all individuals authorized by law to administer COVID-19 vaccinations may vaccinate persons determined by a physician to be extremely vulnerable to COVID-19. Such physician determinations shall include a statement that the patient meets the defined eligibility criteria established by a form prescribed by the Florida Department of Health.<sup>26</sup>

## Theft

A person commits theft when he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property;<sup>27</sup> or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.<sup>28</sup>

Section 812.014, F.S., defines theft offenses and generally categorizes the offense level based on the value of the property stolen. Whether a theft is a misdemeanor or a felony may also depend on the offender's prior history of theft convictions or the type of property stolen. The offense

---

*Vaccines Explained*, (Nov. 20, 2020), U.S. Food and Drug Administration, <https://www.fda.gov/vaccines-blood-biologics/vaccines/emergency-use-authorization-vaccines-explained> (last visited March 10, 2021).

<sup>23</sup> *FDA Issues Emergency Use Authorization for Third COVID-19 Vaccine* (Feb. 27, 2021), U.S. Food and Drug Administration, available at <https://www.fda.gov/news-events/press-announcements/fda-issues-emergency-use-authorization-third-covid-19-vaccine> (last visited March 10, 2021). The first shipment of that vaccine arrived in Florida on March 4, 2021. *First shipment of Johnson & Johnson vaccine arrives in Florida, DeSantis to address distribution Friday afternoon* (March 5, 2021), ABC7 (WWSB) (Sarasota, Fl.), available at <https://www.mysuncoast.com/2021/03/05/first-shipment-johnson-johnson-vaccine-arrives-florida/> (last visited March 10, 2021).

<sup>24</sup> Fla. Exec. Order No. 21-62 (March 9, 2021), Office of the Governor, available at [https://www.flgov.com/wp-content/uploads/orders/2021/EO\\_21-62.pdf](https://www.flgov.com/wp-content/uploads/orders/2021/EO_21-62.pdf) (last visited March 15, 2021).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Section 812.014(1)(a), F.S.

<sup>28</sup> Section 812.014(1)(b), F.S.

levels for theft crimes based on property value range from a second degree misdemeanor<sup>29</sup> to a first degree felony.<sup>30</sup> Enhanced penalty provisions are also provided for certain theft offenses committed after a declaration of an emergency by the Governor that are facilitated by conditions arising from that emergency.<sup>31</sup>

### **Fraudulent Practices**

Chapter 817, F.S., prohibits fraudulent practices against individuals, corporations, and governments, including, in relevant part:

- Providing misleading advertisements (first or second degree misdemeanor);<sup>32</sup>
- Misleading solicitation of payments (second degree misdemeanor fine);<sup>33</sup>
- Obtaining property by fraudulent promise to furnish inside information (third degree felony);<sup>34</sup> and
- Unlawful possession of the personal identification information of another person (first degree misdemeanor or third degree felony).<sup>35</sup>

### **Criminal Use of Personal Identification Information**

Section 817.568, F.S., prohibits the criminal use of another person's personal identification information (PII).<sup>36</sup> PII is a name or number that may be used, alone or in conjunction with any other information, to identify a specific person. Section 817.568(1)(f), F.S., lists several examples of PII, including:

- A name;
- An address;
- Contact information, such as a telephone number or email address;
- A social security number;
- A date of birth;
- A mother's maiden name;
- An official state-issued or federally-issued driver license or identification number;
- Another identification number, such as an alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food assistance account number, bank, credit, or debit card number;
- Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
- Unique electronic identification number, address, or routing code;

---

<sup>29</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

<sup>30</sup> A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>31</sup> See s. 812.014, F.S.

<sup>32</sup> Sections 817.06, 817.44, and 817.45, F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>33</sup> Section 817.061, F.S. A second degree misdemeanor fine is a fine of up to \$500. Section 775.083, F.S.

<sup>34</sup> Section 817.11, F.S. A third degree felony is punishable by up to five years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>35</sup> Section 817.5685, F.S.

<sup>36</sup> Section 817.568, F.S.

- Medical records;
- Telecommunication identifying information or access device; or
- Any other number or information that can be used to access a person's financial resources.

Any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, another person's PII without that person's consent, commits the offense of fraudulent use of personal identification information, a third degree felony. However, the offense level and potential sanctions<sup>37</sup> increase for a violation, based on the dollar amount of the benefit or value received by an offender, the dollar amount of the injury or fraud perpetrated on a victim, the number of victims from which an offender takes PII, the age or status of the victim or victims, and the offender's relationship to the victim.<sup>38</sup>

Florida does not specifically criminalize fraud relating to vaccine scams intended to obtain money or personal identification information from another person or fraudulently offering for sale or advertising PPE. While some COVID-19 or other pandemic scams may be prosecuted under current law, other fraudulent scams may not qualify as a crime and stopping the fraudulent activity may be difficult.

### **The Attorney General and Statewide Prosecutor**

The Attorney General may institute a civil action for a violation, or to prevent a violation, of certain activities. For example, the Attorney General may institute a civil action to:

- Stop a violation of, or prevent a violation of, certain voter registration and ballot initiative laws;<sup>39</sup>
- Seek declaratory or injunctive relief against an entity violating federal immigration policies;<sup>40</sup>
- Maintain an action for injunctive relief against any person or entity violating the Environmental Protection Act;<sup>41</sup>
- Enjoin any person who has violated, is violating, or is otherwise likely to violate any portion of the Florida Deceptive and Unfair Trade Practices Act;<sup>42</sup> and
- Seek damages, injunctive relief, or specified civil penalties against a person or group the Attorney General has reasonable cause to believe has engaged in a pattern or practice of discrimination as defined by the laws of this state.<sup>43</sup>

The Office of Statewide Prosecution (OSP) within the Department of Legal Affairs is authorized to investigate and prosecute an offense listed in s. 16.56, F.S., which is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial

---

<sup>37</sup> Several offenses include a mandatory minimum sentence. See ss. 817.568(2)(b)–(c), 817.568(3), and 817.568(8)(b)–(c), F.S.

<sup>38</sup> See s. 817.568(2)-(11), F.S.

<sup>39</sup> See ss. 97.0575(4) and 100.371(8), F.S.

<sup>40</sup> Section 908.107(2), F.S.

<sup>41</sup> Section 403.412(2)(a), F.S.

<sup>42</sup> Sections 501.201-213, F.S.

<sup>43</sup> Section 760.021, F.S.

circuits.<sup>44</sup> The OSP may also be authorized to prosecute an offense by another statute. For example, s. 817.568, F.S. (criminal use of personal identification information), authorizes the statewide prosecutor to prosecute violations of that statute.<sup>45</sup>

### **Criminal Punishment Code**

The Criminal Punishment Code<sup>46</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).<sup>47</sup> Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>48</sup> Absent mitigation,<sup>49</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>50</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 817.418, F.S., which provides that it is a third degree felony to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.

The bill also creates s. 817.504, F.S., which provides that it is a third degree felony to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information regarding the availability of or access to a vaccine for COVID-19 or a vaccine for any other pandemic disease in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain another person's personal identification information, or to obtain or receive any money or other valuable consideration.

---

<sup>44</sup> Section 16.56(1), F.S.

<sup>45</sup> Section 817.568(16), F.S.

<sup>46</sup> Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>47</sup> Offenses are ranked either in the offense severity level ranking chart in s. 921.0022, F.S., or by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

<sup>48</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>49</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>50</sup> If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

A second or subsequent violation of the previously-described offenses is a second degree felony.<sup>51</sup> Prosecution for either offense may be brought on behalf of the state by any state attorney or by the statewide prosecutor. Further, if the Attorney General reasonably believes that a person has committed either offense, the Attorney General may institute a civil action for the violation or to prevent the violation. An action for relief may include a permanent or temporary injunction, a restraining order, or any other appropriate relief.

The bill also amends the offense severity level ranking chart of the Code to rank the offenses as follows:

- Offering for sale or advertising personal protective equipment with intent to defraud (third degree felony) is a Level 7 offense;
- Offering or advertising a vaccine with intent to defraud (third degree felony) is a Level 7 offense);
- Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense (second degree felony) is a Level 8 offense; and
- Offering or advertising a vaccine with intent to defraud; second or subsequent offense (second degree felony) is a Level 8 offense.

All of these offenses would score a prison sentence as the lowest permissible sentence under the Code.

The bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

---

<sup>51</sup> A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.



E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).<sup>52</sup>

The EDR provided the following information relevant to its preliminary estimate:

Per Office of Attorney General, they have heard from 115 complainants against 83 unique subjects regarding potential scams/frauds related to selling or advertising personal protective equipment. They have also heard from 22 complainants against 20 unique subjects regarding offering or advertising a coronavirus vaccine with the intent to defraud. Per U.S. Immigration and Customs Enforcement, Operation Stolen Promise has made 225 criminal arrests so far associated with fraud related to the coronavirus. It is not known how many of these arrests fit the definitions outlined in this bill, nor is it known how many of these arrests were made in connection with fraud activity in Florida. It is possible that a certain number of these offenders fall under Federal jurisdiction, thus limiting the pool of those potentially entering state prison. Furthermore, many of those offenders might already be eligible under the theft statute, s. 812.014, F.S., or Chapter 817, relating to fraudulent practices, though the severity of the act might not reach the incarceration rate of a Level 7, 3rd degree felony (FY 18-19: 47.4%, FY 19-20: 42.9%) or a Level 8, 2nd degree felony (FY 18-19: 65.8%, FY 19-20: 63.6%). Finally, it is not known how long such illicit activity will persist, especially once the vaccine has inoculated the population.<sup>53</sup>

**VI. Technical Deficiencies:**

None.

---

<sup>52</sup> The EDR's preliminary estimate is on file with the Senate Committee on Criminal Justice.

<sup>53</sup> *Id.*

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 921.0022 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 817.418 and 817.504.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 16, 2021:**

The committee substitute:

- Revises fraud offenses created by the bill to eliminate reference to “intent to defraud”; and
- Provides that an action for relief by the Attorney General may include “any other appropriate order.”

**B. Amendments:**

None.



230774

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 34 - 91  
and insert:  
equipment" means protective clothing or equipment, including,  
but not limited to, face masks, face shields, gloves, goggles,  
gowns, helmets, or respirators designed to protect a person from  
infectious materials, communicable disease, or other illness.  
(2) It is unlawful for any person to knowingly and  
willfully make a materially false or misleading statement or to



230774

knowingly and willfully disseminate false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.

(a) Except as provided in paragraph (b), a person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who commits a second or subsequent violation of this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Prosecution for a violation of this section may be brought on behalf of the state by any state attorney or by the statewide prosecutor.

(4) If the Attorney General reasonably believes that a person has committed a violation of this section, the Attorney General may institute a civil action for a violation of this section or to prevent a violation of this section. An action for relief may include a permanent or temporary injunction, a restraining order, or any other appropriate order.

Section 2. Section 817.504, Florida Statutes, is created to read:

817.504 Offering or advertising a vaccine with intent to defraud.—

(1) It is unlawful for any person to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading



230774

information regarding the availability of, or access to, a vaccine for the novel coronavirus "COVID-19" or a vaccine for any other pandemic disease in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain another person's personal identification information, as defined in s. 817.568(1)(f), or to obtain or receive any money or other valuable consideration.

(a) Except as provided in paragraph (b), a person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who commits a second or subsequent violation of this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Prosecution for a violation of this section may be brought on behalf of the state by any state attorney or by the statewide prosecutor.

(3) If the Attorney General reasonably believes that a person has committed a violation of this section, the Attorney General may institute a civil action for a violation of this section or to prevent a violation of this section. An action for relief may include a permanent or temporary injunction, a restraining order, or any other appropriate order.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 5 - 25

and insert:

prohibiting dissemination of false or misleading



230774

69 information relating to personal protective equipment  
70 under certain circumstances with specified intent;  
71 providing criminal penalties; authorizing a state  
72 attorney or the statewide prosecutor to prosecute a  
73 violation; authorizing the Attorney General to seek  
74 civil remedies; creating s. 817.504, F.S.; prohibiting  
75 dissemination of false or misleading vaccine  
76 information under certain circumstances with specified  
77 intent; providing criminal penalties; authorizing a  
78 state attorney or the statewide prosecutor to  
79 prosecute a violation; authorizing the Attorney  
80 General to seek civil remedies; amending s. 921.0022,  
81 F.S.; ranking offenses created by the act on the  
82 offense severity ranking chart of the Criminal  
83 Punishment Code; providing an effective date.

By Senator Bean

4-01032D-21

20211608\_\_

A bill to be entitled

An act relating to protecting consumers against pandemic-related fraud; creating s. 817.418, F.S.; defining the term "personal protective equipment"; prohibiting a person from knowingly and willfully making a materially false or misleading statement or disseminating false or misleading information, with the intent to defraud, relating to personal protective equipment under certain circumstances with specified intent; providing criminal penalties; authorizing a state attorney or the statewide prosecutor to prosecute a violation; authorizing the Attorney General to seek civil remedies; creating s. 817.504, F.S.; prohibiting a person from knowingly and willfully making a materially false or misleading statement or disseminating false or misleading information, with the intent to defraud, regarding the availability of or access to certain vaccines under certain circumstances with specified intent; providing criminal penalties; authorizing a state attorney or the statewide prosecutor to prosecute a violation; authorizing the Attorney General to seek civil remedies; amending s. 921.0022, F.S.; ranking offenses created by the act on levels 7 and 8 of the offense severity ranking chart; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 817.418, Florida Statutes, is created to

Page 1 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21

20211608\_\_

read:

817.418 Offering for sale or advertising personal protective equipment with intent to defraud.—

(1) As used in this section, the term "personal protective equipment" means protective clothing or equipment including, but not limited to, face masks, face shields, gloves, goggles, gowns, helmets, or respirators designed to protect a person from infectious materials, communicable disease, or other illness.

(2) It is unlawful for any person to knowingly and willfully make a materially false or misleading statement, or to knowingly and willfully disseminate false or misleading information, with the intent to defraud, relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.

(a) Except as provided in paragraph (b), a person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who commits a second or subsequent violation of this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Prosecution for a violation of this section may be brought on behalf of the state by any state attorney or by the statewide prosecutor.

(4) If the Attorney General reasonably believes that a person has committed a violation of this section, the Attorney General may institute a civil action for a violation of this

Page 2 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_

59 section or to prevent a violation of this section. An action for  
 60 relief may include a permanent or temporary injunction or a  
 61 restraining order.

62 Section 2. Section 817.504, Florida Statutes, is created to  
 63 read:

64 817.504 Offering or advertising vaccine with intent to  
 65 defraud.—

66 (1) It is unlawful for any person to knowingly and  
 67 willfully make a materially false or misleading statement, or to  
 68 knowingly and willfully disseminate false or misleading  
 69 information, with the intent to defraud, regarding the  
 70 availability of or access to a vaccine for COVID-19 or a vaccine  
 71 for any other pandemic disease in any marketing or advertising  
 72 material; on a website, social media platform, or other media;  
 73 or by telephone, text message, mail, or e-mail, with the intent  
 74 to obtain another person's personal identification information,  
 75 as defined in s. 817.568(1)(f), or to obtain or receive any  
 76 money or other valuable consideration.

77 (a) Except as provided in paragraph (b), a person who  
 78 violates this subsection commits a felony of the third degree,  
 79 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

80 (b) A person who commits a second or subsequent violation  
 81 of this subsection commits a felony of the second degree,  
 82 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

83 (2) Prosecution for a violation of this section may be  
 84 brought on behalf of the state by any state attorney or by the  
 85 statewide prosecutor.

86 (3) If the Attorney General reasonably believes that a  
 87 person has committed a violation of this section, the Attorney

4-01032D-21 20211608\_\_

88 General may institute a civil action for a violation of this  
 89 section or to prevent a violation of this section. An action for  
 90 relief may include a permanent or temporary injunction or a  
 91 restraining order.

92 Section 3. Paragraphs (g) and (h) of subsection (3) of  
 93 section 921.0022, Florida Statutes, are amended to read:

94 921.0022 Criminal Punishment Code; offense severity ranking  
 95 chart.—

96 (3) OFFENSE SEVERITY RANKING CHART

97 (g) LEVEL 7

98

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.



	4-01032D-21		20211608__
103	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
104	409.920	3rd	Medicaid provider fraud;
105	(2)(b)1.a.		\$10,000 or less.
	409.920	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
106	456.065(2)	3rd	Practicing a health care profession without a license.
107	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
108	458.327(1)	3rd	Practicing medicine without a license.
109	459.013(1)	3rd	Practicing osteopathic medicine without a license.

Page 5 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	4-01032D-21		20211608__
110	460.411(1)	3rd	Practicing chiropractic medicine without a license.
111	461.012(1)	3rd	Practicing podiatric medicine without a license.
112	462.17	3rd	Practicing naturopathy without a license.
113	463.015(1)	3rd	Practicing optometry without a license.
114	464.016(1)	3rd	Practicing nursing without a license.
115	465.015(2)	3rd	Practicing pharmacy without a license.
116	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
117	467.201	3rd	Practicing midwifery without a license.
118	468.366	3rd	Delivering respiratory care services without a license.
119	483.828(1)	3rd	Practicing as clinical

Page 6 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	4-01032D-21		20211608__	
				laboratory personnel without a license.
120	483.901(7)	3rd		Practicing medical physics without a license.
121	484.013(1)(c)	3rd		Preparing or dispensing optical devices without a prescription.
122	484.053	3rd		Dispensing hearing aids without a license.
123	494.0018(2)	1st		Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
124	560.123(8)(b)1.	3rd		Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
125	560.125(5)(a)	3rd		Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

Page 7 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	4-01032D-21		20211608__	
126	655.50(10)(b)1.	3rd		Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
127	775.21(10)(a)	3rd		Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
128	775.21(10)(b)	3rd		Sexual predator working where children regularly congregate.
129	775.21(10)(g)	3rd		Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
130	782.051(3)	2nd		Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
131	782.07(1)	2nd		Killing of a human being by the act, procurement, or culpable negligence of another

Page 8 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_  
 (manslaughter).  
 782.071 2nd Killing of a human being or  
 unborn child by the operation  
 of a motor vehicle in a  
 reckless manner (vehicular  
 homicide).  
 782.072 2nd Killing of a human being by the  
 operation of a vessel in a  
 reckless manner (vessel  
 homicide).  
 784.045(1)(a)1. 2nd Aggravated battery;  
 intentionally causing great  
 bodily harm or disfigurement.  
 784.045(1)(a)2. 2nd Aggravated battery; using  
 deadly weapon.  
 784.045(1)(b) 2nd Aggravated battery; perpetrator  
 aware victim pregnant.  
 784.048(4) 3rd Aggravated stalking; violation  
 of injunction or court order.  
 784.048(7) 3rd Aggravated stalking; violation  
 of court order.

4-01032D-21 20211608\_\_  
 784.07(2)(d) 1st Aggravated battery on law  
 enforcement officer.  
 784.074(1)(a) 1st Aggravated battery on sexually  
 violent predators facility  
 staff.  
 784.08(2)(a) 1st Aggravated battery on a person  
 65 years of age or older.  
 784.081(1) 1st Aggravated battery on specified  
 official or employee.  
 784.082(1) 1st Aggravated battery by detained  
 person on visitor or other  
 detainee.  
 784.083(1) 1st Aggravated battery on code  
 inspector.  
 787.06(3)(a)2. 1st Human trafficking using  
 coercion for labor and services  
 of an adult.  
 787.06(3)(e)2. 1st Human trafficking using  
 coercion for labor and services  
 by the transfer or transport of  
 an adult from outside Florida  
 to within the state.

	4-01032D-21		20211608__
147	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
148	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
149	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
150	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
151	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
152	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
153	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the

	4-01032D-21		20211608__
			penalty enhancements provided for in s. 874.04.
154	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
155	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
156	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
157	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
158	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
159	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older

4-01032D-21

20211608\_\_

but younger than 16 years;  
offender 18 years or older;  
prior conviction for specified  
sex offense.

806.01(2) 2nd Maliciously damage structure by  
fire or explosive.

810.02(3)(a) 2nd Burglary of occupied dwelling;  
unarmed; no assault or battery.

810.02(3)(b) 2nd Burglary of unoccupied  
dwelling; unarmed; no assault  
or battery.

810.02(3)(d) 2nd Burglary of occupied  
conveyance; unarmed; no assault  
or battery.

810.02(3)(e) 2nd Burglary of authorized  
emergency vehicle.

812.014(2)(a)1. 1st Property stolen, valued at  
\$100,000 or more or a  
semitrailer deployed by a law  
enforcement officer; property  
stolen while causing other  
property damage; 1st degree  
grand theft.

Page 13 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21

20211608\_\_

812.014(2)(b)2. 2nd Property stolen, cargo valued  
at less than \$50,000, grand  
theft in 2nd degree.

812.014(2)(b)3. 2nd Property stolen, emergency  
medical equipment; 2nd degree  
grand theft.

812.014(2)(b)4. 2nd Property stolen, law  
enforcement equipment from  
authorized emergency vehicle.

812.0145(2)(a) 1st Theft from person 65 years of  
age or older; \$50,000 or more.

812.019(2) 1st Stolen property; initiates,  
organizes, plans, etc., the  
theft of property and traffics  
in stolen property.

812.131(2)(a) 2nd Robbery by sudden snatching.

812.133(2)(b) 1st Carjacking; no firearm, deadly  
weapon, or other weapon.

817.034(4)(a)1. 1st Communications fraud, value  
greater than \$50,000.

Page 14 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_

175 817.234(8)(a) 2nd Solicitation of motor vehicle  
accident victims with intent to  
defraud.

176 817.234(9) 2nd Organizing, planning, or  
participating in an intentional  
motor vehicle collision.

177 817.234(11)(c) 1st Insurance fraud; property value  
\$100,000 or more.

178 817.2341 1st Making false entries of  
(2)(b) & (3)(b) material fact or false  
statements regarding property  
values relating to the solvency  
of an insuring entity which are  
a significant cause of the  
insolvency of that entity.

179 817.418(2)(a) 3rd Offering for sale or  
advertising personal protective  
equipment with intent to  
defraud.

180 817.504(1)(a) 3rd Offering or advertising a  
vaccine with intent to defraud.

817.535(2)(a) 3rd Filing false lien or other  
unauthorized document.

4-01032D-21 20211608\_\_

181 817.611(2)(b) 2nd Traffic in or possess 15 to 49  
counterfeit credit cards or  
related documents.

182 825.102(3)(b) 2nd Neglecting an elderly person or  
disabled adult causing great  
bodily harm, disability, or  
disfigurement.

183 825.103(3)(b) 2nd Exploiting an elderly person or  
disabled adult and property is  
valued at \$10,000 or more, but  
less than \$50,000.

184 827.03(2)(b) 2nd Neglect of a child causing  
great bodily harm, disability,  
or disfigurement.

185 827.04(3) 3rd Impregnation of a child under  
16 years of age by person 21  
years of age or older.

186 837.05(2) 3rd Giving false information about  
alleged capital felony to a law  
enforcement officer.

187 838.015 2nd Bribery.

188

4-01032D-21 20211608\_\_

838.016 2nd Unlawful compensation or reward  
for official behavior.

189 838.021(3)(a) 2nd Unlawful harm to a public  
servant.

190 838.22 2nd Bid tampering.

191 843.0855(2) 3rd Impersonation of a public  
officer or employee.

192 843.0855(3) 3rd Unlawful simulation of legal  
process.

193 843.0855(4) 3rd Intimidation of a public  
officer or employee.

194 847.0135(3) 3rd Solicitation of a child, via a  
computer service, to commit an  
unlawful sex act.

195 847.0135(4) 2nd Traveling to meet a minor to  
commit an unlawful sex act.

196 872.06 2nd Abuse of a dead human body.

197 874.05(2)(b) 1st Encouraging or recruiting  
person under 13 to join a  
criminal gang; second or

Page 17 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_

subsequent offense.

198 874.10 1st,PBL Knowingly initiates, organizes,  
plans, finances, directs,  
manages, or supervises criminal  
gang-related activity.

199 893.13(1)(c)1. 1st Sell, manufacture, or deliver  
cocaine (or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.)  
within 1,000 feet of a child  
care facility, school, or  
state, county, or municipal  
park or publicly owned  
recreational facility or  
community center.

200 893.13(1)(e)1. 1st Sell, manufacture, or deliver  
cocaine or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.,  
within 1,000 feet of property  
used for religious services or  
a specified business site.

201 893.13(4)(a) 1st Use or hire of minor; deliver

Page 18 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21

20211608\_\_

to minor other controlled  
substance.

202

893.135(1)(a)1. 1st Trafficking in cannabis, more  
than 25 lbs., less than 2,000  
lbs.

203

893.135 1st Trafficking in cocaine, more  
(1)(b)1.a. than 28 grams, less than 200  
grams.

204

893.135 1st Trafficking in illegal drugs,  
(1)(c)1.a. more than 4 grams, less than 14  
grams.

205

893.135 1st Trafficking in hydrocodone, 28  
(1)(c)2.a. grams or more, less than 50  
grams.

206

893.135 1st Trafficking in hydrocodone, 50  
(1)(c)2.b. grams or more, less than 100  
grams.

207

893.135 1st Trafficking in oxycodone, 7  
(1)(c)3.a. grams or more, less than 14  
grams.

208

893.135 1st Trafficking in oxycodone, 14  
(1)(c)3.b. grams or more, less than 25

Page 19 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21

20211608\_\_

grams.

209

893.135 1st Trafficking in fentanyl, 4  
(1)(c)4.b.(I) grams or more, less than 14  
grams.

210

893.135 1st Trafficking in phencyclidine,  
(1)(d)1.a. 28 grams or more, less than 200  
grams.

211

893.135(1)(e)1. 1st Trafficking in methaqualone,  
200 grams or more, less than 5  
kilograms.

212

893.135(1)(f)1. 1st Trafficking in amphetamine, 14  
grams or more, less than 28  
grams.

213

893.135 1st Trafficking in flunitrazepam, 4  
(1)(g)1.a. grams or more, less than 14  
grams.

214

893.135 1st Trafficking in gamma-  
(1)(h)1.a. hydroxybutyric acid (GHB), 1  
kilogram or more, less than 5  
kilograms.

215

893.135 1st Trafficking in 1,4-Butanediol,  
(1)(j)1.a. 1 kilogram or more, less than 5

Page 20 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



	4-01032D-21		20211608__	
			kilograms.	
216	893.135	1st	Trafficking in Phenethylamines,	
	(1) (k) 2.a.		10 grams or more, less than 200	
			grams.	
217	893.135	1st	Trafficking in synthetic	
	(1) (m) 2.a.		cannabinoids, 280 grams or	
			more, less than 500 grams.	
218	893.135	1st	Trafficking in synthetic	
	(1) (m) 2.b.		cannabinoids, 500 grams or	
			more, less than 1,000 grams.	
219	893.135	1st	Trafficking in n-benzyl	
	(1) (n) 2.a.		phenethylamines, 14 grams or	
			more, less than 100 grams.	
220	893.1351(2)	2nd	Possession of place for	
			trafficking in or manufacturing	
			of controlled substance.	
221	896.101(5) (a)	3rd	Money laundering, financial	
			transactions exceeding \$300 but	
			less than \$20,000.	
222	896.104(4) (a) 1.	3rd	Structuring transactions to	
			evade reporting or registration	
			requirements, financial	

	4-01032D-21		20211608__	
			transactions exceeding \$300 but	
			less than \$20,000.	
223	943.0435(4) (c)	2nd	Sexual offender vacating	
			permanent residence; failure to	
			comply with reporting	
			requirements.	
224	943.0435(8)	2nd	Sexual offender; remains in	
			state after indicating intent	
			to leave; failure to comply	
			with reporting requirements.	
225	943.0435(9) (a)	3rd	Sexual offender; failure to	
			comply with reporting	
			requirements.	
226	943.0435(13)	3rd	Failure to report or providing	
			false information about a	
			sexual offender; harbor or	
			conceal a sexual offender.	
227	943.0435(14)	3rd	Sexual offender; failure to	
			report and reregister; failure	
			to respond to address	
			verification; providing false	
			registration information.	
228	944.607(9)	3rd	Sexual offender; failure to	

4-01032D-21 20211608\_\_

comply with reporting requirements.

944.607(10) (a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure

4-01032D-21 20211608\_\_

to respond to address verification; providing false registration information.

(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
316.1935(4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3) (c) 3.	2nd	Vessel BUI manslaughter.
499.0051(6)	1st	Knowing trafficking in contraband prescription drugs.
499.0051(7)	1st	Knowing forgery of prescription labels or prescription drug labels.
560.123(8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less

4-01032D-21 20211608\_\_

than \$100,000 by money  
transmitter.

245 560.125(5) (b) 2nd Money transmitter business by  
unauthorized person, currency  
or payment instruments totaling  
or exceeding \$20,000, but less  
than \$100,000.

246 655.50(10) (b) 2. 2nd Failure to report financial  
transactions totaling or  
exceeding \$20,000, but less  
than \$100,000 by financial  
institutions.

247 777.03(2) (a) 1st Accessory after the fact,  
capital felony.

248 782.04(4) 2nd Killing of human without design  
when engaged in act or attempt  
of any felony other than arson,  
sexual battery, robbery,  
burglary, kidnapping,  
aggravated fleeing or eluding  
with serious bodily injury or  
death, aircraft piracy, or  
unlawfully discharging bomb.

249 782.051(2) 1st Attempted felony murder while

Page 25 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_

perpetrating or attempting to  
perpetrate a felony not  
enumerated in s. 782.04(3).

250 782.071(1) (b) 1st Committing vehicular homicide  
and failing to render aid or  
give information.

251 782.072(2) 1st Committing vessel homicide and  
failing to render aid or give  
information.

252 787.06(3) (a) 1. 1st Human trafficking for labor and  
services of a child.

253 787.06(3) (b) 1st Human trafficking using  
coercion for commercial sexual  
activity of an adult.

254 787.06(3) (c) 2. 1st Human trafficking using  
coercion for labor and services  
of an unauthorized alien adult.

255 787.06(3) (e) 1. 1st Human trafficking for labor and  
services by the transfer or  
transport of a child from  
outside Florida to within the  
state.

256

Page 26 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_

787.06(3)(f)2. 1st Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.

790.161(3) 1st Discharging a destructive device which results in bodily harm or property damage.

794.011(5)(a) 1st Sexual battery; victim 12 years of age or older but younger than 18 years; offender does not use physical force likely to cause serious injury.

794.011(5)(b) 2nd Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

794.011(5)(c) 2nd Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.

4-01032D-21 20211608\_\_

794.011(5)(d) 1st Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.

794.08(3) 2nd Female genital mutilation, removal of a victim younger than 18 years of age from this state.

800.04(4)(b) 2nd Lewd or lascivious battery.

800.04(4)(c) 1st Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.

806.01(1) 1st Maliciously damage dwelling or structure by fire or explosive, believing person in structure.

810.02(2)(a) 1st,PBL Burglary with assault or battery.

810.02(2)(b) 1st,PBL Burglary; armed with explosives or dangerous weapon.

	4-01032D-21		20211608__
268	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
269	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
270	812.13(2)(b)	1st	Robbery with a weapon.
271	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
272	<u>817.418(2)(b)</u>	<u>2nd</u>	<u>Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense.</u>
273	<u>817.504(1)(b)</u>	<u>2nd</u>	<u>Offering or advertising a vaccine with intent to defraud; second or subsequent offense.</u>
274	817.505(4)(c)	1st	Patient brokering; 20 or more patients.
275			

	4-01032D-21		20211608__
	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
276	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
277	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
278	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
279	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
280	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
281			

	4-01032D-21		20211608__
282	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
283	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
284	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
285	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
286	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
287	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
288	860.16	1st	Aircraft piracy.
	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance

Page 31 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	4-01032D-21		20211608__
289			specified in s. 893.03(1)(a) or (b).
290	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
291	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
292	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
293	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
294	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
295	893.135(1)(c)2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.
	893.135(1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100

Page 32 of 35

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-01032D-21 20211608\_\_

grams.

296 893.135 1st Trafficking in fentanyl, 14  
(1) (c) 4.b. (II) grams or more, less than 28  
grams.

297 893.135 1st Trafficking in phencyclidine,  
(1) (d) 1.b. 200 grams or more, less than  
400 grams.

298 893.135 1st Trafficking in methaqualone, 5  
(1) (e) 1.b. kilograms or more, less than 25  
kilograms.

299 893.135 1st Trafficking in amphetamine, 28  
(1) (f) 1.b. grams or more, less than 200  
grams.

300 893.135 1st Trafficking in flunitrazepam,  
(1) (g) 1.b. 14 grams or more, less than 28  
grams.

301 893.135 1st Trafficking in gamma-  
(1) (h) 1.b. hydroxybutyric acid (GHB), 5  
kilograms or more, less than 10  
kilograms.

302 893.135 1st Trafficking in 1,4-Butanediol,  
(1) (j) 1.b. 5 kilograms or more, less than

4-01032D-21 20211608\_\_

10 kilograms.

303 893.135 1st Trafficking in Phenethylamines,  
(1) (k) 2.b. 200 grams or more, less than  
400 grams.

304 893.135 1st Trafficking in synthetic  
(1) (m) 2.c. cannabinoids, 1,000 grams or  
more, less than 30 kilograms.

305 893.135 1st Trafficking in n-benzyl  
(1) (n) 2.b. phenethylamines, 100 grams or  
more, less than 200 grams.

306 893.135(1)(3) 1st Possession of a place used to  
manufacture controlled  
substance when minor is present  
or resides there.

307 895.03(1) 1st Use or invest proceeds derived  
from pattern of racketeering  
activity.

308 895.03(2) 1st Acquire or maintain through  
racketeering activity any  
interest in or control of any  
enterprise or real property.

309 895.03(3) 1st Conduct or participate in any

4-01032D-21

20211608\_\_

enterprise through pattern of  
racketeering activity.

896.101(5)(b)

2nd

Money laundering, financial  
transactions totaling or  
exceeding \$20,000, but less  
than \$100,000.

896.104(4)(a)2.

2nd

Structuring transactions to  
evade reporting or registration  
requirements, financial  
transactions totaling or  
exceeding \$20,000 but less than  
\$100,000.

Section 4. This act shall take effect upon becoming a law.



## **CS/HB 9 – Protecting Consumers Against Pandemic-related Fraud (Similar SB 1608)**

This bill also creates s. 817.418, F.S., defining “personal protective equipment” and stating that “it is unlawful for any person to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.” A **Level 7, 3<sup>rd</sup> degree felony** is created for such fraudulent acts, and a **Level 8, 2<sup>nd</sup> degree felony** is created for when “a person...commits a second or subsequent violation.”

This bill also creates s. 817.504, F.S., stating that “it is unlawful for any person to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information regarding the availability of, or access to, a vaccine for the novel coronavirus “COVID-19” or a vaccine for any other pandemic disease in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain another person's personal identification information...or to obtain or receive any money or other valuable consideration.” A **Level 7, 3<sup>rd</sup> degree felony** is created for such fraudulent acts, and a **Level 8, 2<sup>nd</sup> degree felony** is created for when “a person...commits a second or subsequent violation.”

Per Office of Attorney General, they have heard from 115 complainants against 83 unique subjects regarding potential scams/frauds related to selling or advertising personal protective equipment. They have also heard from 22 complainants against 20 unique subjects regarding offering or advertising a coronavirus vaccine with the intent to defraud. Per U.S. Immigration and Customs Enforcement, Operation Stolen Promise has made 225 criminal arrests so far associated with fraud related to the coronavirus. It is not known how many of these arrests fit the definitions outlined in this bill, nor is it known how many of these arrests were made in connection with fraud activity in Florida. It is possible that a certain number of these offenders fall under Federal jurisdiction, thus limiting the pool of those potentially entering state prison. Furthermore, many of those offenders might already be eligible under the theft statute, s. 812.014, F.S., or Chapter 817, relating to fraudulent practices, though the severity of the act might not reach the incarceration rate of a Level 7, 3<sup>rd</sup> degree felony (FY 18-19: 47.4%, FY 19-20: 42.9%) or a Level 8, 2<sup>nd</sup> degree felony (FY 18-19: 65.8%, FY 19-20: 63.6%). Finally, it is not known how long such illicit activity will persist, especially once the vaccine has inoculated the population.

**EDR PROPOSED ESTIMATE: Positive Indeterminate**

**Requested by: Senate**

## THE FLORIDA SENATE

## APPEARANCE RECORD

3/16/2021

Meeting Date

1608

Bill Number (if applicable)

Topic Protecting Consumers Against Pandemic-related Fraud

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

City

State

Zip

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

1608

Bill Number (if applicable)

Topic PANDEMIC FRAUD

Amendment Barcode (if applicable)

Name TRISH NEELY

Job Title DIRECTOR

Address 2024 SHANGRI LA LANE

Phone 8503223317

Street

TALLY FL 32303

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing LEAGUE WOMEN VOTERS FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 2, 2021

---

I respectfully request that **Senate Bill #1608**, relating to Protecting Consumers Against Pandemic-related Fraud, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script that reads "Aaron Bean".

---

Senator Aaron Bean  
Florida Senate, District 4

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 1818

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Law Enforcement Officer Training

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Fav/CS
2.			AP	
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1818 authorizes the Criminal Justice Standards and Training Commission (CJSTC) to incorporate instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques into the course curriculum required for law enforcement officers obtaining initial certification. The bill also authorizes the CJSTC to adopt rules authorizing each officer to receive instruction on use of force, deescalation techniques and suicide awareness and prevention techniques as part of required instruction for continued employment or appointment as an officer.

According to the Florida Department of Law Enforcement (FDLE), development of the CJSTC's post-basic course(s) on use of force, suicide awareness and prevention and, possibly, deescalation, if the intent of the bill is meant to offer all subjects within one course, would cost \$4,278. Should the CJSTC require this instruction as mandatory retraining, there would also be \$37,000 in costs for analysis, design, programming, and testing the existing Automated Training Management System (ATMS). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

## II. Present Situation:

### Training Requirements for Florida Law Enforcement Officers

The training requirements for a Florida law enforcement officer have been described by the FDLE as follows:

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law enforcement officer. To maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, F.S., which requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every four years. The employing agency must document the continuing training or education is job-related and consistent with the needs of the employing agency and report completion of the training to CJSTC through the [ATMS].<sup>1</sup>

### Use of Force

Section 776.05, F.S., provides that a law enforcement officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- When necessarily committed in retaking felons who have escaped;<sup>2</sup> or
- When necessarily committed in arresting felons fleeing from justice. However, this does not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force<sup>3</sup> was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:
  - The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

---

<sup>1</sup> 2021 FDLE Legislative Bill Analysis (SB 1818) (March 8, 2021), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).

<sup>2</sup> See s. 776.07, F.S., which provides that a law enforcement officer or other person who has an arrested person in his or her custody is justified in the use of any force which he or she reasonably believes to be necessary to prevent the escape of the arrested person from custody. The statute further provides that a correctional officer or other law enforcement officer is justified in the use of force, including deadly force, which he or she reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

<sup>3</sup> As applied to a law enforcement officer or correctional officer acting in the performance of his or her official duties, the term “deadly force” means force that is likely to cause death or great bodily harm and includes, but is not limited to: the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and the firing of a firearm at a vehicle in which the person to be arrested is riding. Section 776.06(1), F.S. “Deadly force” does not include the discharge of a firearm by a law enforcement officer or correctional officer during and within the scope of his or her official duties which is loaded with a “less-lethal munition” (a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person’s body. Section 776.06(2)(a), F.S. A law enforcement officer is not liable in any civil or criminal action arising out of the use of any less-lethal munition in good faith during and within the scope of his or her official duties. Section 776.06(2)(b), F.S.

- The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.<sup>4</sup>

An excessive force claim under 42 U.S.C. s. 1983<sup>5</sup> that “arises in the context of an arrest or investigatory stop of a free citizen ... is most properly characterized as one invoking the protections of the Fourth Amendment.”<sup>6</sup> An “objective reasonableness” standard is used, the “proper application” of which “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”<sup>7</sup> “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”<sup>8</sup> “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”<sup>9</sup>

### Deescalation Techniques

“The term de-escalation generally refers to the act of moving from a state of high tension to a state of reduced tension[.] In law enforcement, minimizing danger and tension in potentially volatile situations is a daily responsibility.”<sup>10</sup> As one commentary notes, “[o]ne of the enduring myths about policing involves the idea that police officers are primarily crime fighters.”<sup>11</sup> The majority of a patrol officer’s duties “are focused on service activities, maintaining peace and order, and problem-solving[.]”<sup>12</sup>

When police officers de-escalate a crisis, they conduct an intervention that will assist the individual in crisis in regaining control emotionally and resolve or reduce the crisis to a manageable state. This response is similar to other law enforcement strategies that require communication and negotiation skills, knowledge, tactics, and officer-safety techniques.<sup>13</sup>

<sup>4</sup> Law enforcement officers are also “eligible to assert Stand Your Ground immunity, even when the use of force occurred in the course of making a lawful arrest.” See *State v. Peraza*, 259 So.3d 728, 733 (Fla. 2018), discussing ss. 776.012 and 776.032(1), F.S.

<sup>5</sup> “Section 1983 provides an individual the right to sue state government employees and others acting ‘under color of state law’ for civil rights violations. Section 1983 does not provide civil rights; it is a means to enforce civil rights that already exist.” *Civil Rights in the United States*, Law Library, Univ. of Minn. Law School, available at <https://libguides.law.umn.edu/c.php?g=125765&p=2893387#:~:text=Section%201983%20provides%20an%20individual,civil%20rights%20that%20already%20exist> (last visited March 10, 2021).

<sup>6</sup> *Graham v. Connor*, 490 U.S. 386, 394 (1989).

<sup>7</sup> *Id.* at 396 (citation omitted).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 396-397.

<sup>10</sup> Janet R. Oliva, Rhiannon Morgan, and Michael T. Compton, *A Practical Overview of De-Escalation Skills in Law Enforcement: Helping Individuals in Crisis While Reducing Police Liability and Injury*, Journal of Police Crisis Negotiations, 10:15–29, 2010, at p. 18, available at <https://de-escalate.org/wp-content/uploads/2019/02/A-Practical-Overview-of-De-Escalation-Skills-in-Law-Enforcement.pdf> (last visited March 10, 2021). This resource is further cited as “Oliva, Morgan, and Romano (2010).”

<sup>11</sup> *Id.*, at p. 15.

<sup>12</sup> *Id.*

<sup>13</sup> Oliva, Morgan, and Romano (2010), *supra*, at p. 18. “In an ideal situation, the officer may evaluate the nature of the call by, for example (1) allowing people to give their side of the story; (2) explaining what the officer is doing, what the person

Intervention techniques have often focused on the traditional, linear use of force continuum:

- Officer Presence (officer at the scene as deterrence);
- Verbalization (e.g., calm, nonthreatening commands);
- Empty-hand control (e.g., soft restraint techniques like grabbing, holding, and joint locks, and hard restraint techniques like hitting, kicking, or other physical action);
- Less-Than-Lethal Methods of Physical Force (e.g., chemicals sprays, tasers, batons, or nonlethal projectiles); and
- Lethal Force.<sup>14</sup>

Some have criticized the use-of-force continuum as being oversimplistic and suggesting that the only response to a conflict is escalating force until the conflict is resolved.<sup>15</sup> For example, the Police Executive Research Forum (PERF) has recommended the Critical Decision-Making Model (CDM).<sup>16</sup> PERF explains:

The CDM teaches officers to start asking themselves the following types of questions as soon as they get a call:

“What do I know about what is happening at the scene of this call? Is there a history of previous calls at this location? What do we know about the person who made the call? Is there any indication of a mental health issue at this call? Is there a person with a weapon at the scene?”

And then, after arriving at the scene, officers are taught to keep asking questions as they work through a 5-step process:

1. Collect information.
2. Assess the situation, threats, and risks.
3. Consider police powers and agency policy.
4. Identify options and determine best course of action.
5. Act, review, and re-assess.<sup>17</sup>

---

can do, and what is going to happen; (3) telling the person why the officer is taking action; and (4) acting with dignity and leaving the person with their dignity. Knowing that even in the most reasonable circumstance, people will not always comply, an officer maintains a set of strategies that consider officer and public safety, and what actions are in the best interest of the public. CJSTC report (May 11, 2017), *supra*, at p. 11.

<sup>14</sup> See Oliva, Morgan, and Romano (2010), *supra*, at pp. 18-19 and *The Use-of-Force Continuum* (Aug. 3, 2009), The National Institute of Justice, available at <https://nij.ojp.gov/topics/articles/use-force-continuum> (last visited March 10, 2021).

<sup>15</sup> *PERF Daily Critical Issue Report* (June 15, 2020), Police Executive Research Forum, available at <https://www.policeforum.org/criticalissuesjune15> (last visited March 10, 2021).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*



## Crisis Intervention and Mental Health Issues

According to the National Alliance on Mental Illness (NAMI), “[t]he lack of mental health crisis services across the U.S. has resulted in law enforcement officers serving as first responders to most crises.”<sup>18</sup>

While the causes [of a crisis] can vary greatly, anyone can be susceptible to experiencing a crisis. Individuals with serious mental illnesses like psychotic disorders (e.g., schizophrenia) who are in crisis may have trouble with reality testing, experiencing delusions (fixed false beliefs) or hallucinations (a misperception commonly experienced as hearing voices). These individuals may also be experiencing fear, insecurity, difficulty concentrating, agitation, over-stimulation, and poor judgment. They may become preoccupied, withdrawn, or argumentative. Other crisis events may involve family altercations, intoxicated or chemically dependent individuals, suicide attempts, victims of accidents, physical or sexual assaults, or other taxing situations[.]<sup>19</sup>

“Many agencies have determined that because all their officers respond to mental health calls, they need to have the specialized training, knowledge, and skills to respond appropriately.”<sup>20</sup> “The task of crisis intervention is that of communicating with people[.] The purpose of crisis intervention is to help individuals in crisis achieve -with assistance of the crisis intervener- equilibrium within themselves so they resume their normal activities[.]”<sup>21</sup> To enhance such communication, the officer might learn active listening skills and behaviors to avoid and also engage in role-playing.<sup>22</sup>

Some law enforcement agencies have addressed crisis intervention by engaging in Crisis Intervention Team (CIT) Training, which is a training curriculum that “emphasizes understanding of mental illness and incorporates the development of communication skills, practical experience and role-playing. Officers are introduced to mental health professionals, consumers and family members both in the classroom and through site visits.”<sup>23</sup>

Mental illness training may also occur during recruit academy training, in-service training, and roll-call training. The U.S. Department of Justice (DOJ) asserts that “[r]ecruit academy training is not sufficient by itself to prepare a police force to respond appropriately to individuals experiencing a mental health crisis. Recruit academy training must exist alongside a more comprehensive and robust program to be effective.”<sup>24</sup> Further, DOJ states that “[i]n-service and roll-call training provide law enforcement agencies with the opportunities to convey new policies

---

<sup>18</sup> *Crisis Intervention Team (CIT) Programs*, National Alliance on Mental Illness, available at [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs) (last visited March 3, 2021).

<sup>19</sup> Oliva, Morgan, and Romano (2010), *supra*, at p. 16.

<sup>20</sup> *Training/Police-Mental Health Collaboration (PMHC) Toolkit*, U.S. Department of Justice, available at <https://bja.ojp.gov/program/pmhc/training#:~:text=Mental%20Health%20First%20Aid%20for%20Public%20Safety%20is%20an%20eight,effective%20response%20options%20to%20deescalate> (last visited March 3, 2021).

<sup>21</sup> Oliva, Morgan, and Romano (2010), *supra*, at p. 19 (citation omitted).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

and tactics to officers, to refresh knowledge, and to reinforce skills learned in previous recruit or specialized training courses.”<sup>25</sup>

### **Florida Law Enforcement Training on Use of Force, Deescalation Techniques, and Suicide Awareness and prevention Techniques**

The FDLE describes current training relating to use of force, deescalation techniques, and suicide awareness and prevention techniques:

Currently, instruction on use of force, de-escalation techniques and suicide awareness and prevention techniques is included in the law enforcement basic recruit training program (BRTP).

A specialized post-basic 16-hour de-escalation course will be presented for CJSTC approval in May 2021.... While the department has information on use of force and suicide awareness and prevention, there is no specific post-basic course(s) devoted specifically to these two topics.

Currently, CJSTC required mandatory retraining is determined by an officer’s employing agency. All criminal justice agency heads have the discretion to determine the training to fulfill the mandatory retraining requirements for their officers. As such, many agencies already contract with outside vendors to deliver training on these topics.<sup>26</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 943.1719, F.S., which authorizes the CJSTC to incorporate instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques into the course curriculum required for law enforcement officers obtaining initial certification. Use of force training may include, but need not be limited to, instruction on legal use of force, including deadly force.

The bill defines the following terms relevant to this new statute:

- “Deescalation techniques” includes, but is not limited to:
  - The use of alternative, nonlethal methods of applying force and techniques that prevent the officer from escalating any situation where force is likely to be used;
  - The use of verbal and physical tactics to minimize the need for the use of force, with an emphasis on communication, negotiation, and deescalation tactics, and to provide the time needed to resolve the incident safely for everyone;
  - The use of the lowest level of force that is a possible and safe response to an identified threat and reevaluating the threat as it progresses;
  - The use of techniques that provide all officers with awareness and recognition of mental health and substance abuse issues with an emphasis on communication strategies, and

---

<sup>25</sup> *Id.* However, the DOJ also asserts that roll-call training, like recruit academy training, “is not sufficient by itself to prepare a police force to respond appropriately to individuals experiencing a mental health crisis.” *Id.*

<sup>26</sup> 2021 FDLE Legislative Bill Analysis (SB 1818) (March 8, 2021), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).

- training officers simultaneously in teams on deescalation and use of force to improve group dynamics and diminish excessive use of force during critical incidents;
- Principles of using distance, cover, and time when approaching and managing critical incidents; and
- Crisis intervention strategies to appropriately identify and respond to individuals suffering from mental health or substance abuse issues, with an emphasis on deescalation tactics and promoting effective communication.
- “Suicide awareness and prevention techniques” includes, but is not limited to, methods and tools for recognizing signs that an individual is in crisis and promoting awareness of, and training in recognizing, symptoms of post-traumatic stress disorder.

The bill also creates s. 943.17191, F.S., which authorizes the CJSTC to adopt rules authorizing each officer to receive instruction on use of force, deescalation techniques and suicide awareness and prevention techniques as part of required instruction for continued employment or appointment as an officer.

The bill takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The FDLE provides the following comments regarding the bill's impact:

The bill specifies CJSTC “may” authorize each officer to receive, as part of the 40 hours of required instruction for continued employment or appointment as an officer, instruction on use of force, de-escalation techniques and suicide awareness and prevention techniques. The term “may” indicates training is at the discretion of CJSTC. However, if the Commission develops a course(s) on these topics, CJSTC staff will be required to pull together all the material described in this bill and design and develop the new post-basic course(s). Since each component came from or has been vetted by subject matter experts (SMEs), staff will consult with individual SMEs as needed for each piece (e.g., suicide, use of force, etc.) and send the final product to a group of SMEs for review. While this will not require the typical costs for developing a course – as the department has material already - it will still require costs to vet all of the information....<sup>27</sup>

In addition, if CJSTC votes to make it mandatory for all officers, ATMS will have to be programmed to ensure each officer receives instruction on the material.

According to the FDLE, development of the CJSTC's post-basic course(s) on use of force, suicide awareness and prevention and, possibly, deescalation, if the intent of the bill is meant to offer all subjects within one course, would cost \$4,278 (nonrecurring).<sup>28</sup>

**Analysis**

- Consult with topic-specific SMEs as needed (\$186 for 10 hours)
- Review and select existing material (\$744 for 40 hours)

**Design/Development**

- Develop a cohesive course (\$2,232 for 120 hours)

**Review/Revisions** (\$744 for 40 hours)**Implementation**

- Course edit (\$372 for 20 hours)

**Total cost: \$ 4,278<sup>29</sup>**

Should the CJSTC require this instruction as mandatory retraining, there would also be \$37,000 in (nonrecurring) costs for analysis, design, programming and testing the

---

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

existing Automated Training Management System (ATMS). The FDLE estimates these technological modifications/updates would take three months to complete.<sup>30</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 943.1719 and 943.17191.

**IX. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 16, 2021:**

The committee substitute changes the effective date from July 1, 2021, to July 1, 2022.

- B. Amendments:

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

---

<sup>30</sup> *Id.*



171434

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Burgess) recommended the following:

**Senate Amendment**

Delete line 71  
and insert:  
Section 3. This act shall take effect July 1, 2022.

By Senator Burgess

20-00600D-21

20211818\_\_

A bill to be entitled

An act relating to law enforcement officer training; creating s. 943.1719, F.S.; defining terms; authorizing the Criminal Justice Standards and Training Commission to incorporate instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques into the course curriculum required for law enforcement officers obtaining initial certification; providing training authorizations; creating s. 943.17191, F.S.; authorizing the commission to adopt rules authorizing each officer to receive instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques as part of required instruction for continued employment or appointment as an officer; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 943.1719, Florida Statutes, is created to read:

943.1719 Basic skills training relating to use of force, deescalation techniques, and suicide awareness and prevention techniques.—

(1) As used in this section, the term:

(a) "Deescalation techniques" includes, but is not limited to:

1. The use of alternative, nonlethal methods of applying force and techniques that prevent the officer from escalating

20-00600D-21

20211818\_\_

any situation where force is likely to be used;

2. The use of verbal and physical tactics to minimize the need for the use of force, with an emphasis on communication, negotiation, and deescalation tactics, and to provide the time needed to resolve the incident safely for everyone;

3. The use of the lowest level of force that is a possible and safe response to an identified threat and reevaluating the threat as it progresses;

4. The use of techniques that provide all officers with awareness and recognition of mental health and substance abuse issues with an emphasis on communication strategies, and training officers simultaneously in teams on deescalation and use of force to improve group dynamics and diminish excessive use of force during critical incidents;

5. Principles of using distance, cover, and time when approaching and managing critical incidents; and

6. Crisis intervention strategies to appropriately identify and respond to individuals suffering from mental health or substance abuse issues, with an emphasis on deescalation tactics and promoting effective communication.

(b) "Suicide awareness and prevention techniques" includes, but is not limited to, methods and tools for recognizing signs that an individual is in crisis and promoting awareness of, and training in recognizing, symptoms of post-traumatic stress disorder.

(2) The commission may incorporate instruction on use of force, deescalation techniques, and suicide awareness and prevention techniques into the course curriculum required for a law enforcement officer to obtain initial certification. Use of

20-00600D-21

20211818\_\_

59 force training may include, but need not be limited to,  
60 instruction on legal use of force, including deadly force.

61 Section 2. Section 943.17191, Florida Statutes, is created  
62 to read:

63 943.17191 Continued employment training on use of force,  
64 deescalation techniques, and suicide awareness and prevention  
65 techniques.—The commission may by rule authorize that each  
66 officer receive, as part of the 40 hours of required instruction  
67 for continued employment or appointment as an officer,  
68 instruction on use of force, deescalation techniques, and  
69 suicide awareness and prevention techniques as those terms are  
70 described or defined in s. 943.1719.

71 Section 3. This act shall take effect July 1, 2021.





# 2021 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
<b>BILL NUMBER:</b>	SB 1818
<b>BILL TITLE:</b>	Law Enforcement Officer Training
<b>BILL SPONSOR:</b>	Senator Burgess
<b>EFFECTIVE DATE:</b>	July 1, 2021

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations
3) Rules
4)
5)

PREVIOUS LEGISLATION	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

IDENTICAL BILLS	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
<b>DATE OF ANALYSIS:</b>	March 8, 2021
<b>LEAD AGENCY ANALYST:</b>	Dean Register
<b>ADDITIONAL ANALYST(S):</b>	Ashley Pennington, Glen Hopkins, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Chris Bufano
<b>FISCAL ANALYST:</b>	Cynthia Barr

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Authorizes the Criminal Justice Standards & Training Commission (CJSTC) to incorporate instruction on use of force, de-escalation techniques and suicide awareness and prevention techniques into the course curriculum required for law enforcement officers obtaining initial certification. Authorizes CJSTC to adopt rules authorizing each officer to receive instruction on use of force, de-escalation techniques and suicide awareness and prevention techniques as part of required instruction for continued employment or appointment as an officer, etc.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** In compliance with s. 943.13, FS, applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law enforcement officer. To maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, FS, which requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every four years. The employing agency must document the continuing training or education is job-related and consistent with the needs of the employing agency and report completion of the training to CJSTC through the Automated Training Management System (ATMS).

Currently, instruction on use of force, de-escalation techniques and suicide awareness and prevention techniques is included in the law enforcement basic recruit training program (B RTP).

A specialized post-basic 16-hour de-escalation course will be presented for CJSTC approval in May 2021. However, if the intent of this bill is to require all topics within one post-basic course, CJSTC staff will be required to develop a new course that combines these topics. While the department has information on use of force and suicide awareness and prevention, there is no specific post-basic course(s) devoted specifically to these two topics.

Currently, CJSTC required mandatory retraining is determined by an officer's employing agency. All criminal justice agency heads have the discretion to determine the training to fulfill the mandatory retraining requirements for their officers. As such, many agencies already contract with outside vendors to deliver training on these topics.

2. **EFFECT OF THE BILL:** Since the requirements specified for basic training are already included in B RTPs, no additional tasks are required.

The bill specifies CJSTC "may" authorize each officer to receive, as part of the 40 hours of required instruction for continued employment or appointment as an officer, instruction on use of force, de-escalation techniques and suicide awareness and prevention techniques. The term "may" indicates training is at the discretion of CJSTC. However, if the Commission develops a course(s) on these topics, CJSTC staff will be required to pull together all the material described in this bill and design and develop the new post-basic course(s). Since each component came from or has been vetted by subject matter experts (SMEs), staff will consult with individual SMEs as needed for each piece (e.g., suicide, use of force, etc.) and send the final product to a group of SMEs for review. While this will not require the typical costs for developing a course – as the department has material already - it will still require costs to vet all of the information. The estimated costs are detailed under Additional Comments.

In addition, if CJSTC votes to make it mandatory for all officers, ATMS will have to be programmed to ensure each officer receives instruction on the material.

3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

4. **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒**

If yes, provide a description:	
Date Due:	
Bill Section Number:	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☐**

Revenues:	
Expenditures:	Unknown
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐**

Revenues:	No
Expenditures:	<ul style="list-style-type: none"> <li>Requires CJSTC to update BTRPs and post-basic courses which will cost approximately \$4,278 (see Additional Comments).</li> </ul>

	<ul style="list-style-type: none"> <li>Additionally, should CJSTC require this as mandatory retraining, this will require modifications to ATMS totaling approximately \$37,000 (see Technology Impact).</li> </ul> <p><b>Total FDLE Fiscal: \$41,278 nonrecurring</b></p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☒**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

### TECHNOLOGY IMPACT

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐**

If yes, describe the anticipated impact to the agency including any fiscal impact.	If the Commission determines this course will be mandatory this will require IT work (analysis, design, programming and testing) to existing ATMS totaling approximately \$37,000 and estimated to take three months to complete.
--	---

### FEDERAL IMPACT

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

### LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
--	--

### ADDITIONAL COMMENTS

- The bill has an effective date of July 1, 2021. However, that is not enough time to host workshops, compile research, develop the course and receive approval from CJSTC. FDLE recommends an effective date change of July 1, 2022.
- Development of CJSTC post-basic course(s) on use of force, suicide awareness and prevention and, possibly, de-escalation if the intent of the bill is meant to offer all subjects within one course would include the following costs:

Tasks	Hours	Cost
<b>Analysis</b>		
Consult with topic-specific SMEs as needed	10	\$ 186
Review and select existing material	40	\$ 744
<b>Design/Development</b>		
Develop a cohesive course	120	\$ 2,232
<b>Review/Revisions</b>	40	\$ 744
<b>Implementation</b>		
Course edit	20	\$ 372
<b>Total cost</b>		<b>\$ 4,278</b>

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

1818

Bill Number (if applicable)

Topic law enforcement training

Amendment Barcode (if applicable)

Name Kristellys Estanga

Job Title Aide to city commission

Address 406 W 8th Ave

Phone 904 804 9010

Street

Tallahassee

City

FL

State

32303

Zip

Email kristellys@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/21

Meeting Date

1818

Bill Number (if applicable)

Topic LEO Training

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

Street

Tallahassee

FL

32303

Email carrie.boyd@splcenter.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

SB 1818

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Thomas Ragonese

Job Title \_\_\_\_\_

Address 1309 White Oak Lane

Phone 772-489-4484

Street

Fort Pierce, FL

34982

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/2021  
Meeting Date

1818  
Bill Number (if applicable)

Topic Law Enforcement Training

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 529 E. Call St.

Phone 850-321-9386

Tallahassee FL 32301  
City State Zip

Email fcfep@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

March 16<sup>th</sup>  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB1818  
Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Catherine Ragonese

Job Title \_\_\_\_\_

Address 1309 White Oak Lane

Phone 772-489-4484

Street

Fort Pierce FL 34982

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

**APPEARANCE RECORD**

03/16/21

*Meeting Date*

1818

*Bill Number (if applicable)*

Topic Law Enforcement Officer Training

*Amendment Barcode (if applicable)*

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Ave

*Street*

Tallahassee

*City*

FL

*State*

32301

*Zip*

Phone 850-339-0075

Email idelgado@flaccb.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 9, 2021

---

I respectfully request that **Senate Bill #1818**, relating to Law Enforcement Officer Training, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script, appearing to read "Danny", written over a horizontal line.

Senator Danny Burgess  
Florida Senate, District 20

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: SB 1850

INTRODUCER: Senator Perry

SUBJECT: Electronic Threats

DATE: March 15, 2021

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Jones	CJ	<b>Favorable</b>
2. _____	_____	RC	_____

---

**I. Summary:**

SB 1850 amends s. 836.10, F.S., to prohibit a person from sending, posting, transmitting, or procuring the sending, posting, or transmission of a writing or other record, including an electronic record, in any manner in which it may be viewed by another person, when in such writing or record the person makes a threat to:

- Kill or to do bodily harm to another person; or
- Conduct a mass shooting or an act of terrorism.

This bill removes the requirement in current law that a threat posted online be specifically sent to and received by the person who is the subject of the threat.

The bill defines the previously undefined term of “electronic record” as any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call.

The bill does not alter the current penalty for a violation of s. 836.10, F.S., which is a second degree felony, punishable by up to 15 years imprisonment and a \$10,000 fine.

The bill has a positive indeterminate prison bed impact on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2021.

## II. Present Situation:

A threat is a statement by which the speaker means to communicate an expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.<sup>1</sup> “True threats” to inflict bodily injury or death are not speech protected under the First Amendment of the U.S. Constitution.<sup>2</sup> To rise to the level of a “true threat,” the person making the threat must intentionally or knowingly communicate the threat and the subject of the threat must have a reasonable fear that the person making the threat intends to carry out the threat.<sup>3</sup>

Section 836.10, F.S., prohibits the written communication of certain threats. It is a second degree felony<sup>4</sup> for a person to make a written threat to a specific person or when a person makes a threat, in writing, to conduct a mass shooting or an act of terrorism. Specifically, a person violates s. 836.10, F.S., when he or she:

- Writes or composes and also sends, or procures the sending of, any letter, inscribed communication, or electronic communication, signed or anonymous, to any person which contains a threat to kill or to do bodily injury to the person to whom such letter or communication is sent, or a threat to kill or do bodily injury to any member of the family of the person to whom such letter or communication is sent;<sup>5</sup> or
- Makes, posts, or transmits a threat in a writing or other record, including an electronic record, to conduct a mass shooting or an act of terrorism, in any manner that would allow another person to view the threat.

Florida courts have reviewed s. 836.10, F.S., and found the current form of the statute not to be unconstitutional.<sup>6</sup>

Florida law has evolved over time. In 2010, the Legislature criminalized threats made over “electronic communication,” however, the provision of the statute requiring a threat be sent directly to the person who is the subject of the threat, or to a person whose family member is the subject of the threat remained unchanged.<sup>7</sup>

A 2016 case determined that a child’s public posting on Twitter that he was going to “shoot up” his school was not sent *directly* to a *specific person*, therefore the child’s conduct did not violate

---

<sup>1</sup> *Virginia v. Black*, 538 U.S. 343, 359-60 (2003).

<sup>2</sup> *Saidi v. State*, 845 So. 2d 1022, 1026 (Fla. 5th DCA 2003) citing *United States v. Hutson*, 843 F.2d 1232 (9th Cir. 1988).

<sup>3</sup> *Smith v. State*, 532 So.2d 50 (Fla. 2d DCA 1988); *See also Puy v. State*, 294 So.3d 930 (Fla. 4th DCA 2020), holding that the issue of whether a message sent by a former high school student to his friends via Snapchat, which contained a photograph of himself with the caption “On my way! School shooter,” could cause alarm in a reasonable person, such that the message constituted a threat, was a question for the jury to decide.

<sup>4</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>5</sup> The act of “sending” a threat has been described as a two-part action. The action must be both “depositing” the communication for “delivery” and the “receipt” of the communication *by the person being threatened*. *State v. Wise*, 664 So.2d 1028 (Fla. 2d DCA 1995); *O’Leary v. State*, 109 So.3d 874 (Fla. 1st DCA 2013).

<sup>6</sup> *Saidi v. State*, 845 So.2d 1022 (Fla. 5th DCA 2003); *See also Smith v. State*, 532 So.2d 50 (Fla.2d DCA 1988).

<sup>7</sup> Chapter 2010-51, L.O.F.

s. 836.10, F.S.<sup>8</sup> The court noted that many threats made on social media fall outside the narrow scope of the law, which requires the communication to be sent directly to a specific person.<sup>9</sup>

After the *J.A.W.* opinion, the Legislature again amended s. 836.10, F.S., to include the making, posting, or transmitting of a threat in a writing or other record, including an electronic record, to conduct a *mass shooting or an act of terrorism*, in any manner that would allow another person to view the threat, the second way a person may violate the statute.<sup>10</sup>

Although the 2018 amendment to s. 836.10, F.S., captured circumstances involving a threat made to a group of people and eliminated the requirement that a threat be communicated directly to a specific person, the requirement that a threat made to an individual be sent directly to the subject of the threat or to a person whose family member was the subject of the threat remains in current law.<sup>11</sup>

### III. Effect of Proposed Changes:

The bill amends s. 836.10, F.S., to prohibit a person from sending, posting, transmitting, or procuring the sending, posting, or transmission of a writing or other record, including an electronic record, in any manner in which it may be viewed by another person, when in such writing or record the person makes a threat to:

- Kill or to do bodily harm to another person; or
- Conduct a mass shooting or an act of terrorism.

The bill criminalizes publicly posting a threat online, even if it is not specifically sent to or received by the person who is the subject of the threat.<sup>12</sup>

The bill defines the previously undefined term of “electronic record” as any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call.

The bill retains the current second degree felony penalty for a violation of s. 836.10, F.S.

The bill is effective October 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

---

<sup>8</sup> *J.A.W. v. State*, 210 So.3d 142 (Fla. 2d DCA 2016).

<sup>9</sup> *Id.*

<sup>10</sup> Chapter 2018-3, s. 17, L.O.F.

<sup>11</sup> Section 836.10(1), F.S.

<sup>12</sup> Criminal prosecution of threats is limited by case law to those threats that are intentionally or knowingly made, and that are sufficient to cause alarm in a reasonable person.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference considered the bill on March 8, 2021, and determined that the bill will result in a positive indeterminate (i.e. an unquantifiable increase) prison bed impact on the Department of Corrections.<sup>13</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 836.10, and 921.0022.

---

<sup>13</sup> Economic and Demographic Research, Criminal Justice Impact Conference, March 8, 2021, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/index.cfm> (last visited March 11, 2021).



**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

By Senator Perry

8-01486B-21

20211850\_\_

A bill to be entitled

An act relating to electronic threats; amending s. 836.10, F.S.; defining the term "electronic record"; prohibiting a person from sending, posting, or transmitting, or from procuring the sending, posting, or transmission of a written or electronic record when in such record the person makes a threat to kill or to do bodily harm to another person or to conduct a mass shooting or an act of terrorism; providing criminal penalties; amending s. 921.0022, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (1) and (2) of section 836.10, Florida Statutes, are redesignated as subsections (2) and (3), respectively, a new subsection (1) is added to that section, and present subsection (1) is amended, to read:

836.10 Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism; punishment; exemption from liability.—

(1) As used in this section, the term "electronic record" means any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call.

(2)(1) It is unlawful for any person to send, post, or transmit, or procure the sending, posting, or transmission of,

Page 1 of 10

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21

20211850\_\_

~~who writes or composes and also sends or procures the sending of any letter, inscribed communication, or electronic communication, whether such letter or communication be signed or anonymous, to any person, containing a threat to kill or to do bodily injury to the person to whom such letter or communication is sent, or a threat to kill or do bodily injury to any member of the family of the person to whom such letter or communication is sent, or any person who makes, posts, or transmits a threat in a writing or other record, including an electronic record, to conduct a mass shooting or an act of terrorism, in any manner in which it may be viewed by that would allow another person to view the threat, when in such writing or record the person makes a threat to:~~

(a) Kill or to do bodily harm to another person; or

(b) Conduct a mass shooting or an act of terrorism.

A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida	Felony	Description
Statute	Degree	

Page 2 of 10

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21 20211850\_\_

57 316.027(2)(b) 2nd Leaving the scene of a crash  
involving serious bodily  
injury.

58 316.193(2)(b) 3rd Felony DUI, 4th or subsequent  
conviction.

59 400.9935(4)(c) 2nd Operating a clinic, or offering  
services requiring licensure,  
without a license.

60 499.0051(2) 2nd Knowing forgery of transaction  
history, transaction  
information, or transaction  
statement.

61 499.0051(3) 2nd Knowing purchase or receipt of  
prescription drug from  
unauthorized person.

62 499.0051(4) 2nd Knowing sale or transfer of  
prescription drug to  
unauthorized person.

63 775.0875(1) 3rd Taking firearm from law  
enforcement officer.

64 784.021(1)(a) 3rd Aggravated assault; deadly

Page 3 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21 20211850\_\_

65 weapon without intent to kill.

784.021(1)(b) 3rd Aggravated assault; intent to  
commit felony.

784.041 3rd Felony battery; domestic  
battery by strangulation.

784.048(3) 3rd Aggravated stalking; credible  
threat.

784.048(5) 3rd Aggravated stalking of person  
under 16.

784.07(2)(c) 2nd Aggravated assault on law  
enforcement officer.

784.074(1)(b) 2nd Aggravated assault on sexually  
violent predators facility  
staff.

784.08(2)(b) 2nd Aggravated assault on a person  
65 years of age or older.

784.081(2) 2nd Aggravated assault on specified  
official or employee.

784.082(2) 2nd Aggravated assault by detained  
person on visitor or other

Page 4 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21 20211850\_\_  
 detainee.  
 74 784.083 (2) 2nd Aggravated assault on code  
 inspector.  
 75 787.02 (2) 3rd False imprisonment; restraining  
 with purpose other than those  
 in s. 787.01.  
 76 790.115 (2) (d) 2nd Discharging firearm or weapon  
 on school property.  
 77 790.161 (2) 2nd Make, possess, or throw  
 destructive device with intent  
 to do bodily harm or damage  
 property.  
 78 790.164 (1) 2nd False report concerning bomb,  
 explosive, weapon of mass  
 destruction, act of arson or  
 violence to state property, or  
 use of firearms in violent  
 manner.  
 79 790.19 2nd Shooting or throwing deadly  
 missiles into dwellings,  
 vessels, or vehicles.  
 80 794.011 (8) (a) 3rd Solicitation of minor to

Page 5 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21 20211850\_\_  
 participate in sexual activity  
 by custodial adult.  
 81 794.05 (1) 2nd Unlawful sexual activity with  
 specified minor.  
 82 800.04 (5) (d) 3rd Lewd or lascivious molestation;  
 victim 12 years of age or older  
 but less than 16 years of age;  
 offender less than 18 years.  
 83 800.04 (6) (b) 2nd Lewd or lascivious conduct;  
 offender 18 years of age or  
 older.  
 84 806.031 (2) 2nd Arson resulting in great bodily  
 harm to firefighter or any  
 other person.  
 85 810.02 (3) (c) 2nd Burglary of occupied structure;  
 unarmed; no assault or battery.  
 86 810.145 (8) (b) 2nd Video voyeurism; certain minor  
 victims; 2nd or subsequent  
 offense.  
 87 812.014 (2) (b) 1. 2nd Property stolen \$20,000 or  
 more, but less than \$100,000,  
 grand theft in 2nd degree.

Page 6 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21

20211850\_\_

88

812.014 (6) 2nd Theft; property stolen \$3,000 or more; coordination of others.

89

812.015 (9) (a) 2nd Retail theft; property stolen \$750 or more; second or subsequent conviction.

90

812.015 (9) (b) 2nd Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.

91

812.13 (2) (c) 2nd Robbery, no firearm or other weapon (strong-arm robbery).

92

817.4821 (5) 2nd Possess cloning paraphernalia with intent to create cloned cellular telephones.

93

817.505 (4) (b) 2nd Patient brokering; 10 or more patients.

94

825.102 (1) 3rd Abuse of an elderly person or disabled adult.

95

825.102 (3) (c) 3rd Neglect of an elderly person or disabled adult.

Page 7 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21

20211850\_\_

96

825.1025 (3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

97

825.103 (3) (c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

98

827.03 (2) (c) 3rd Abuse of a child.

99

827.03 (2) (d) 3rd Neglect of a child.

100

827.071 (2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.

101

836.05 2nd Threats; extortion.

102

836.10 2nd Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.

103

843.12 3rd Aids or assists person to escape.

104

847.011 3rd Distributing, offering to distribute, or possessing with

Page 8 of 10

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21

20211850\_\_

intent to distribute obscene  
materials depicting minors.

847.012

3rd

Knowingly using a minor in the  
production of materials harmful  
to minors.

847.0135(2)

3rd

Facilitates sexual conduct of  
or with a minor or the visual  
depiction of such conduct.

914.23

2nd

Retaliation against a witness,  
victim, or informant, with  
bodily injury.

944.35(3)(a)2.

3rd

Committing malicious battery  
upon or inflicting cruel or  
inhuman treatment on an inmate  
or offender on community  
supervision, resulting in great  
bodily harm.

944.40

2nd

Escapes.

944.46

3rd

Harboring, concealing, aiding  
escaped prisoners.

944.47(1)(a)5.

2nd

Introduction of contraband  
(firearm, weapon, or explosive)

Page 9 of 10

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

8-01486B-21

20211850\_\_

into correctional facility.

951.22(1)(i)

3rd

Firearm or weapon introduced  
into county detention facility.

Section 3. This act shall take effect October 1, 2021.

Page 10 of 10

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

YOU MUST PRINT **AND DELIVER** THIS FORM TO THE ASSIGNED TESTIMONY ROOM

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

SB 1850

*Bill Number (if applicable)*

Topic Electronic Threats

*Amendment Barcode (if applicable)*

Name Jorge Chamizo

Job Title Attorney

Address 108 S Monroe St

Phone 850-681-0024

*Street*

Tallahassee

FL

32301

Email jorge@flapartners.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Florida Association of Criminal Defense Lawyers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

**APPEARANCE RECORD**

March 16, 2021

*Meeting Date*

SB 1850

*Bill Number (if applicable)*

Topic Electronic threats

*Amendment Barcode (if applicable)*

Name Jennifer Cook Pritt

Job Title Deputy Executive Director

Address PO Box 14038

Phone 8502193631

*Street*

Tallahassee

FL

32317

Email

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

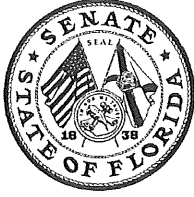
Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)





The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 5, 2021

---

I respectfully request that **Senate Bill #1850**, relating to Electronic Threats, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long horizontal stroke extending to the right.

\_\_\_\_\_  
Senator Keith Perry  
Florida Senate, District 8

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 1908

INTRODUCER: Criminal Justice Committee and Senator Pizzo

SUBJECT: Gain-time for Certain Women Prisoners

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	<b>Fav/CS</b>
2.			ACJ	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1908 provides that:

- The absence of the mother of a young child on a daily basis may lead to problems and disorders connected to such absence;
- A mother's presence soothes a child's stress and helps to regulate a child's emotions;
- A mother's extended absence can cause a child to experience higher levels of stress and anxiety; and
- The more emotionally and physically present a mother can be for her child, the better the chance that child will be emotionally healthy and mentally well.

The bill makes a pregnant prisoner or a prisoner who is the mother of a child age three or younger eligible to earn or receive gain-time in an amount that would cause the woman's sentence to expire, end, or terminate or result in the prisoner's release after serving 65 percent of the imposed sentence, rather than 85 percent as currently required. The woman would be eligible for the 65 percent service requirement if she:

- Has not been convicted of a violent felony which the bill defines as offenses enumerated in ss. 775.084(1)(c)1., 827.03, 827.071, and 827.10, F.S.;
- Has demonstrated good behavior while incarcerated; and
- Has participated in at least one educational or rehabilitative program, if such programs were available; however, if the prisoner's participation is terminated for any reason other than the prisoner's voluntary termination or expulsion for the program for cause, participation is considered as completion of the program.

The bill provides that if the prisoner's qualifying pregnancy is terminated prior to the birth of the child or if the prisoner is no longer the legal parent of the qualifying child who was age 3 or younger at the time of the offense, then the prisoner is no longer eligible for the 65 percent service requirement.

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a "negative indeterminate" prison bed impact (an unquantifiable decrease in prison beds). The bill will also likely have a fiscal impact on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## **II. Present Situation:**

### **Criminal Punishment Code**

In 1997, the Legislature enacted the Criminal Punishment Code<sup>1</sup> (Code) as Florida's "primary sentencing policy."<sup>2</sup> The primary purpose of the Code is to punish the offender and though rehabilitation is desired, it is a subordinate goal.<sup>3</sup>

The Code also provides that the sentence imposed by the sentencing judge for noncapital felony offenses committed on or after October 1, 1998, reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time as provided by law.<sup>4</sup> The sentence may not be shortened if the defendant would consequently serve less than 85 percent of his or her term of imprisonment as provided in s. 944.275(4)(b)3., F.S.<sup>5</sup>

### **Gain-Time**

Section 944.275, F.S., allows the DOC to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services. Prisoners who committed sentences after October 1, 1995, may earn incentive gain-time, which includes educational achievement gain-time, and meritorious gain-time.

### ***Incentive Gain-Time***

The DOC may grant incentive gain-time for each month during which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities. The rate of incentive gain-time in effect on the date the prisoner committed the offense

---

<sup>1</sup> Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

<sup>2</sup> See chs. 97-194 and 98-204, L.O.F.

<sup>3</sup> Section 921.002(1)(b), F.S.

<sup>4</sup> Section 921.002(1)(e), F.S.

<sup>5</sup> Persons sentenced for offenses committed prior to October 1, 1995, are not subject to the 85 percent requirement. See *Frequently Asked Questions Regarding Gaintime*, DOC, available at [https://www.floridasupremecourt.org/content/download/242696/file/Johnson%2013-711\(1\).pdf](https://www.floridasupremecourt.org/content/download/242696/file/Johnson%2013-711(1).pdf) (last visited on March 16, 2021).

that resulted in his or her incarceration is the prisoner's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in the severity level of the offense for which the prisoner was sentenced. Section 944.275(4)(b), F.S., specifies that:

- For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days per month of incentive gain-time may be granted;
- For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:
  - Up to 25 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 1 through 7;
  - Up to 20 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 8, 9, and 10; and
- For sentences imposed for offenses committed after October 1, 1995, up to 10 days per month of incentive gain-time may be granted.

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to a prisoner who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. A prisoner may not receive more than 60 days for educational attainment.<sup>6</sup> The DOC may grant an additional six days of incentive gain-time if a prisoner attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.<sup>7</sup>

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person; or
- Computer pornography.<sup>8</sup>

### ***Meritorious Gain-Time***

The DOC may grant meritorious gain-time to a prisoner who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner, or who in some manner

---

<sup>6</sup> Section 944.275(4)(d), F.S.

<sup>7</sup> Section 944.801(3)(i), F.S. "Active participation" means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

<sup>8</sup> Section 944.275(4)(e), F.S.

performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from 1 to 60 days.<sup>9</sup>

### ***Limitations on Earning Gain-Time***

For sentences imposed for offenses committed on or after October 1, 1995, a prisoner may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed.<sup>10</sup> Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. If a prisoner is found to have violated state law or department rules, gain-time may be forfeited according to law.<sup>11</sup>

State prisoners sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.<sup>12</sup> Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.<sup>13</sup>
- Certain prisoners convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.<sup>14</sup>
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.<sup>15</sup>
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.<sup>16</sup>
- Prisoners convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.<sup>17</sup>
- Prisoners convicted under the dangerous sexual felony offender statute.<sup>18</sup>

---

<sup>9</sup> Section 944.275(4)(c), F.S.

<sup>10</sup> Section 944.275(4)(f), F.S.

<sup>11</sup> Sections 944.275(5) and 944.28, F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee offender" also means any defendant who commits or attempts to commit one of the aforementioned offenses while serving a prison sentence or on escape status from a correctional facility.

<sup>14</sup> Section 316.1935(6), F.S.

<sup>15</sup> Section 775.087(2), F.S.

<sup>16</sup> Section 775.087(3), F.S.

<sup>17</sup> Section 784.07(3), F.S.

<sup>18</sup> Section 794.0115, F.S.

## **Pregnancy while Incarcerated**

Women are the fastest growing segment of the incarcerated population.<sup>19</sup> Reports predict that an estimated four to ten percent of women are pregnant upon being committed to prison or jail.<sup>20</sup> Documentation of pregnancies and pregnancy care while incarcerated is sparse. The most recent data from the Bureau of Justice Statistics (BJS) was collected more than 15 years ago. In 2002, the BJS found that five percent of women in local jails were pregnant when admitted. In 2004, the BJS reported that four percent of women in state prisons and three percent of women in federal prisons were pregnant upon admission. The government has not released any further national data since.<sup>21</sup>

## **Pregnant Women in Florida Correctional Facilities**

The DOC has five female correctional institutions statewide.<sup>22</sup> The DOC assigns prisoners to institutions based on current classification procedures while facilitating the individual risk and needs of prisoners to the extent possible considering security and health care needs.<sup>23</sup> The DOC also considers other factors, such as the programmatic and education needs of the prisoner. All newly committed females receive a complete physical examination, which includes a complete gynecological and obstetrical history, pelvic examination, and serum pregnancy test.<sup>24</sup> All inmates who are visibly pregnant or confirmed to be pregnant are housed at the Lowell Correctional Institution which houses all pregnant prisoners for the duration of the pregnancy, unless a medical condition prohibits transfer to or housing at the facility.

The DOC reports the pregnant prisoner population over the last three fiscal years is as follows:

- 69 in Fiscal Year 2019-2020;
- 101 in Fiscal Year 2018-2019; and
- 98 in Fiscal Year 2017-2018.<sup>25</sup>

---

<sup>19</sup> Sawyer, Wendy, Prison Policy Initiative, *The Gender Divide: Tracking Women's State Prison Growth*, p. 17, January 9, 2018, available at [https://www.prisonpolicy.org/reports/women\\_overtime.html](https://www.prisonpolicy.org/reports/women_overtime.html) (last visited March 16, 2021).

<sup>20</sup> Ferszt, G., Palmer, M., and McGrane, C., Nursing for Women's Health, *Where Does Your State Stand on Shackling of Pregnant Incarcerated Women?*, February 2018, available at [https://nwhjournal.org/article/S1751-4851\(17\)30335-5/pdf](https://nwhjournal.org/article/S1751-4851(17)30335-5/pdf) (last visited March 16, 2021); Daniel, R., Prison Policy Initiative, *Prisons Neglect Pregnant Women in Their Healthcare Policies*, December 5, 2019, available at <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/> (last visited March 16, 2021).

<sup>21</sup> Daniel, R., Prison Policy Initiative, *Prisons Neglect Pregnant Women in Their Healthcare Policies*, December 5, 2019, available at <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/> (last visited March 16, 2021). See also Sufrin, C., Beal, L., Clarke, J., Jones, R., and Mosher, W., The American Journal of Public Health, *Pregnancy Outcomes in US Prison, 2016-2017*, January 15, 2019, available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305006> (last visited March 16, 2021).

<sup>22</sup> These facilities are Gadsden Correctional Facility in Quincy, Lowell Correctional Institution in Ocala, Florida Women's Reception Center in Ocala, Hernando Correctional Institution in Brooksville, and Homestead Correctional Institution in Florida City. Office of Program Policy Analysis and Government Accountability, *Florida Correctional Facilities, Report No. 19-08*, (October 2019), p. 2, available at <https://oppaga.fl.gov/Documents/Reports/19-08.pdf> (last visited March 16, 2021).

<sup>23</sup> *Id.* at pp. 7-8.

<sup>24</sup> The DOC, *Agency Analysis for SB 1908*, March 12, 2021, p. 3, (on file with the Senate Criminal Justice Committee).

<sup>25</sup> *Id.* This measures the number of different prisoners who were pregnant at some point during the fiscal year; however, some prisoners may be counted in more than one fiscal year.

According to the DOC, the 69 pregnant prisoners incarcerated in FY 2019-2020, were serving sentences for the following offense categories:

Offense Category Description	Number of Inmates
Murder	0
Sex Crimes	1
Robbery	4
Violent Personal Crimes <sup>26</sup>	14
Burglary	9
Thefts, forgery, fraud	17
Drugs	19
Weapons	1
All Others	4

### ***Protections for Pregnant Prisoners under State Law***

Section 944.241, F.S., prohibits restraints<sup>27</sup> from being used on a prisoner<sup>28</sup> who is known to be pregnant during labor,<sup>29</sup> delivery, and postpartum recovery,<sup>30</sup> unless the corrections official<sup>31</sup> makes an individualized determination that the prisoner presents an extraordinary circumstance.<sup>32</sup> This section applies to any facility under the authority of the DOC, the Department of Juvenile Justice, a county or municipal detention facility, or a detention facility operated by a private entity.<sup>33</sup>

State law also limits the involuntary placement of a pregnant prisoner in restrictive housing.<sup>34</sup> A pregnant prisoner may be involuntarily placed in restrictive housing if the corrections official of

<sup>26</sup> “Violent personal crimes” includes crimes such as aggravated battery, kidnapping, arson, and assault and battery on a law enforcement officer. E-mail from Scotti Vaughan, Legislative Affairs, Department of Corrections (March 15, 2021) (on file with the Senate Criminal Justice Committee).

<sup>27</sup> Section 944.241(2)(h), F.S., defines “restraints” to mean any physical restraint or mechanical device used to control the movement of a prisoner’s body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

<sup>28</sup> Section 944.241(2)(g), F.S., defines “prisoner” to mean any person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for a violation of criminal law or the terms and conditions of parole, probation, community control, pretrial release, or a diversionary program. Additionally, the term includes any woman detained under the immigration laws of the United States at any correctional institution.

<sup>29</sup> Section 944.241(2)(e), F.S., defines “labor” to mean the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

<sup>30</sup> Section 944.241(2)(f), F.S., defines “postpartum recovery” to mean, as determined by her physician, the period immediately following delivery, including the recovery period when a woman is in the hospital or infirmary following birth, up to 24 hours after delivery unless the physician after consultation with the DOC or correctional institution recommends a longer period of time.

<sup>31</sup> Section 944.241(2)(b), F.S., defines “corrections official” to mean the official who is responsible for oversight of a correctional institution, or his or her designee.

<sup>32</sup> Section 944.241(2)(d), F.S., defines “extraordinary circumstance” to mean a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, or the public.

<sup>33</sup> See s. 944.241(2)(a), F.S.

<sup>34</sup> Section 944.241(2)(k), F.S., defines “restrictive housing” to mean housing a prisoner separately from the general population of a correctional institution and imposing restrictions on her movement, behavior, and privileges. The term includes placing a prisoner in medical isolation, in a medical housing unit, or in the infirmary.

the correctional institution makes an individualized determination that such housing is necessary to protect the health and safety of the pregnant prisoner or others. Pregnant prisoners placed in restrictive housing must be seen by a qualified healthcare professional every 24 hours and a corrections officer every hour. Pregnant prisoners must be given a medical treatment plan that has been developed and approved by a qualified healthcare professional at the correctional institution.<sup>35</sup>

If a pregnant woman needs medical care or has passed her due date, she must be placed in a designated medical housing unit or admitted to the infirmary. She must have access to outdoor recreation, visitation, mail, telephone calls, and other privileges and classes available to the general population unless:

- A corrections official, in consultation with a qualified health care professional, determines such access poses a threat to the safety and security of the correctional institution; or
- A qualified health care professional determines that such access poses a danger of adverse clinical consequences for the pregnant prisoner or others.<sup>36</sup>

### **Female Prisoners with Young Children**

The DOC reports that prisoner family information is self-report and is not verified by the DOC's staff. Therefore, the DOC does not know how many female prisoners have children who were aged three or younger at the time of the offense for which they are incarcerated.

### ***Family Reunification and Parenting Programs Offered by the DOC***

The DOC indicates that it offers services to promote stronger relationships between returning citizens and their families to increase post-release success. The DOC:

- Fosters visitation of family members by moving prisoners closer to home, when suitable;
- Partners with organizations, such as Children of Inmates;<sup>37</sup>
- Utilizes volunteers to implement the Parenting from Inside curriculum at DOC institutions;
- Employs video visitation and email to maintain family ties;
- Incorporates family reunification/parenting programs into each contract for substance use disorder treatment services;
- Identifies risk factors associated with family dynamics using the DOC's evidence-driven assessment, CINAS, and delivers programs and services to mitigate those risks for prisoners; and
- Utilizes a vast list of community providers to provide offenders with programs and services designed to teach positive parenting skills and prevent abuse and neglect.<sup>38</sup>

---

<sup>35</sup> Section 944.241(4), F.S.

<sup>36</sup> Section 944.241(4)(d), F.S.

<sup>37</sup> Children of Inmates is a nonprofit organization that coordinates care and family reunification opportunities for Florida children whose parent is incarcerated. See <https://www.childrenofinmates.org/AboutUs.aspx> (last visited March 16, 2021).

<sup>38</sup> *Supra* note 24 at p. 3.



## Children of Incarcerated Parents

In 2007, the U.S. Department of Justice, Bureau of Justice Statistics found that 52 percent of state prisoners were parents of minor children.<sup>39</sup> The study found that between 1991 and midyear 2007, the number of parents held in state and federal prisons increased by 79 percent and the number of children with incarcerated parents increased by 80 percent.<sup>40</sup> Unfortunately, this appears to have been the latest such report.

Parental incarceration may affect many aspects of a child's life, including his or her emotional and behavioral well-being, family stability, and financial circumstances. However, children of incarcerated parents have a number of other factors that must be taken into account in determining the impact of parental incarceration, such as family and caregiver instability, poverty, exposure to violence, parental substance abuse, and parental criminality.<sup>41</sup> These factors, which may have led to the parental incarceration, may have a greater impact on the child than the actual parental incarceration.<sup>42</sup>

Studies on the impact of parental incarceration have primarily focused on the effect of the father's incarceration; rather than maternal incarceration. The research that has been done appears to indicate that the father's incarceration is indeed harmful to children.<sup>43</sup> However, research on maternal incarceration is more variable as children of incarcerated mothers appear to be subject to more instability before and as a consequence of incarceration.<sup>44</sup> According to the Bureau of Justice Statistics, 64 percent of incarcerated mothers reported living with their minor child in the month before arrest or just prior to incarceration.<sup>45</sup>

Some studies suggest that maternal incarceration is not a factor in certain aspects of a child's life, while other studies find that it plays a significant role.<sup>46</sup> For example, in several studies, once socio-economic and substance abuse were taken into account, it was found that maternal incarceration did not play a role in reported behavioral problems in children at ages five and nine and that it isn't independently associated with educational outcomes among young children.<sup>47</sup>

---

<sup>39</sup> U.S. Department of Justice, Bureau of Justice Statistics, *Parents in Prison and Their Minor Children*, August 2008, available at <https://www.bjs.gov/content/pub/pdf/pptmc.pdf> (last visited March 16, 2021).

<sup>40</sup> *Id.*

<sup>41</sup> Turney, K. and Goodsell R., *Parental Incarceration and Children's Wellbeing*, THE FUTURE OF CHILDREN, 28:1, Spring 2018, available at <https://files.eric.ed.gov/fulltext/EJ1179185.pdf> (last visited March 16, 2021).

<sup>42</sup> U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Parental Incarceration and Children in Nonparental Care*, ASPE Research Brief, December 2016, p. 2, available at <https://aspe.hhs.gov/system/files/pdf/258536/ParentalIncarcerationChildrenNonparentalCare.pdf.pdf> (last visited March 16, 2021).

<sup>43</sup> Wakefield, Sara, Ph.D., and Wildeman, Christopher, Ph.D., National Council on Family Relations, *How Parental Incarceration Harms Children and What to Do About It*, POLICY BRIEF, January 2018, available at [https://www.ncfr.org/sites/default/files/2018-01/How%20Parental%20Incarceration%20Harms%20Children%20NCFR%20Policy\\_Full%20Brief\\_Jan.%202018\\_0.pdf](https://www.ncfr.org/sites/default/files/2018-01/How%20Parental%20Incarceration%20Harms%20Children%20NCFR%20Policy_Full%20Brief_Jan.%202018_0.pdf) (last visited March 16, 2021).

<sup>44</sup> *Id.* See also U.S. Department of Justice, *supra* note 39 at p. 7.

<sup>45</sup> *Supra* note 39 at p. 4.

<sup>46</sup> See *supra* note 43 at pp. 2-3.

<sup>47</sup> *Id.* at p. 151

However, maternal incarceration was associated with depressive young adults and lower chance of college graduation.<sup>48</sup>

With regards to infants, researchers express concern that incarcerated mothers who give birth while incarcerated are not afforded the opportunity to develop a bond to the baby or that the baby does not have a chance to become familiar with the mother and form an attachment to her.<sup>49</sup> Such children are likely to develop emotional or behavioral problems, because of the lack of this emotional bond and attachment to the mother.<sup>50</sup>

Insecure attachments in younger children may also result in poor peer relationships and diminished cognitive abilities. According to one estimate, 70 percent of young children with incarcerated mothers had emotional or psychological problems, such as anxiety, withdrawal, hypervigilance, depression, shame, and guilt.<sup>51</sup> Researchers again caution that incarceration is often preceded by other factors that may play a significant role in such outcomes.<sup>52</sup>

### III. Effect of Proposed Changes:

The preamble of the bill provides that:

- The absence of the mother of a young child on a daily basis may lead to problems and disorders connected to such absence;
- A mother's presence soothes a child's stress and helps to regulate a child's emotions;
- A mother's extended absence can cause a child to experience higher levels of stress and anxiety; and
- The more emotionally and physically present a mother can be for her child, the better the chance that child will be emotionally healthy and mentally well.

Under the bill, a pregnant prisoner<sup>53</sup> or a prisoner who is the mother of a child age three or younger at the time the offense or offenses were committed is eligible to earn or receive gain-time in an amount that would cause the woman's sentence to expire, end, or terminate or result in the prisoner's release after serving 65 percent of the imposed sentence, rather than 85 percent as currently required. The woman would be eligible for the 65 percent service requirement if she:

- Has not been convicted of a violent felony, which the bill defines as the offenses enumerated in ss. 775.084(1)(c)1., 827.03, 827.071, and 827.10, F.S.;
- Has demonstrated good behavior while incarcerated; and
- Has participated in at least one educational or rehabilitative program, if such programs were available. However, if the prisoner's participation in the program is terminated for any reason other than the prisoner's voluntary termination or expulsion from the program for cause, her participation in the program qualifies as completion of the program.

---

<sup>48</sup> *Id.* at pp. 151-152.

<sup>49</sup> U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Effects of Parental Incarceration on Young Children*, December 1, 2001, available at <https://aspe.hhs.gov/basic-report/effects-parental-incarceration-young-children#The> (last visited March 16, 2021).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* See also *supra* note 42 at p. 2, and *supra* note 43 at p. 2.

<sup>53</sup> Section 944.241(2)(h), F.S., defines "pregnant prisoner" as any prisoner whose pregnancy is confirmed by or otherwise known to a qualified health care professional at the correctional institution.

Under s. 775.084(1)(c)1., F.S., a violent felony includes, a conviction for the commission, or an attempt or conspiracy to commit:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery;
- Aggravated stalking;
- Home invasion/robbery;
- Carjacking; or
- An offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to elements of any felony offense listed above, or an attempt to commit any such offense.

Sections 827.03, 827.071, and 827.10, F.S., address offenses related to abuse, aggravated abuse, and neglect of a child, sexual performance of a child, and unlawful desertion of a child, respectively.

The bill makes conforming changes.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by article VII, section 18 of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

This bill may implicate the Equal Protection Clause of the U.S. Constitution and a similar clause in the Florida Constitution.<sup>54</sup> The Fourteenth Amendment of the U.S. Constitution provides that no state shall deny to any person within its jurisdiction the equal protection of the laws.<sup>55</sup> The Fourteenth Amendment prevents unreasonable discrimination based on the use of classification, thereby preventing laws which draw distinctions between individual classes based solely on differences that do not relate to a legitimate governmental objective. The Florida Equal Protection Clause provides that all natural persons, female and male, are equal before the law.<sup>56</sup>

A law with gender classifications must serve important governmental objectives and must be substantially related to the achievement of those objectives.<sup>57</sup> A male prisoner who has a child aged three or younger at the time the offense for which he is incarcerated was committed and who meets the other criteria as outlined in the bill may claim that as such he is similarly situated and should be eligible for the 65 percent service requirement, rather than the 85 percent requirement.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "negative indeterminate" prison bed impact (an unquantifiable decrease in prison beds).

The EDR provided the following information relevant to its preliminary estimate:

---

<sup>54</sup> U.S. Const. amend. XIV, and Art. I, s. 2. Fla. Const.

<sup>55</sup> *Id.*

<sup>56</sup> Art. I, s. 2. Fla. Const.

<sup>57</sup> *Alachua County Court Executive v. Anthony*, 418 So.2d 264, 265-266 (Fla. 1982) (citing *Craig v. Boren*, 429 U.S. 190, 197 (1976)).

Per DOC, in FY 18-19, there were 101 pregnant inmates in the prison population, and in FY 19-20, there were 69 pregnant inmates. It is not known how many inmates in the prison population were mothers of children that were 3 years of age or younger. Additionally, by keeping the gain-time award at 10 days per month, shortening the time served to 65% would probably provide a smaller impact initially, since short sentence inmates do not have time to reach the 85% threshold, whereas the impact would be greater for inmates with longer sentences and would take time to be realized in its impact on beds.<sup>58</sup>

The DOC may have reduced costs associated with a reduction in the prison population due to the release of qualified women being released after serving 65 percent, rather than 85 percent of the imposed sentence. However, there may be an increase in offenders supervised on community control, which may increase the need for additional staff and resources to supervise this population.<sup>59</sup>

The DOC estimates that it would likely absorb the minimal technology impact cost associated with the need to reprogram systems.<sup>60</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of Florida Statutes: 921.002 and 944.275.

This bill creates section 944.243 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 16, 2021:**

The committee substitute:

- Adds crimes related to child abuse and neglect to the definition of “violent crimes”;
- Provides that a prisoner must complete, rather than participate, in educational or rehabilitative programs to qualify for the 65 percent service requirement;
- Provides that if a woman’s participation in a program is terminated due to a reason other than the prisoner’s voluntary termination or expulsion from the program for cause, then such participation will count as completion of the program; and

---

<sup>58</sup> The EDR estimate is on file with the Senate Committee on Criminal Justice.

<sup>59</sup> *Supra* note 24 at p. 7.

<sup>60</sup> *Supra* note 24 at p. 8.

- Provides that a prisoner whose qualifying pregnancy terminates or is no longer the legal parent of the qualifying child due to adoption or termination of parental rights is ineligible for the 65 percent service requirement.

**B. Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---



210990

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Pizzo) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 32 - 49  
and insert:

(1) As used in this section, the term "violent felony"  
means the commission of, an attempt to commit, or a conspiracy  
to commit any offense enumerated in s. 775.084(1)(c)1., s.  
827.03, 827.071, or 827.10.

(2) A prisoner sentenced to a state correctional  
institution who is a pregnant prisoner as defined in s. 944.241



210990

or who is the mother of a child 3 years of age or younger at the time the offense or offenses were committed is eligible to earn or receive gain-time under s. 944.275 in an amount that would cause the sentence to expire, end, or terminate, or that would result in the prisoner's release, after serving 65 percent of the sentence imposed if:

(a) No offense for which the prisoner was convicted is a violent felony;

(b) The prisoner has demonstrated good behavior while incarcerated; and

(c) The prisoner has completed at least one educational or rehabilitative program while incarcerated, if such education or rehabilitative program was available. However, if the prisoner's participation in an educational or rehabilitative program is due to a reason other than the prisoner's voluntary termination or expulsion from the program for cause, the prisoner's participation in the program shall be considered as completion of the program for purposes of this paragraph.

(3) A pregnant prisoner or a prisoner who is the mother of a child 3 years of age or younger at the time the offense or offenses were committed becomes ineligible for release under this section if the qualifying pregnancy is subsequently terminated prior to the birth of an infant, or the woman is no longer the legal parent of a qualifying child due to an adoption under chapter 63 or termination of parental rights under chapter 39, or similar proceedings in another jurisdiction.

===== T I T L E   A M E N D M E N T =====





210990

40 And the title is amended as follows:  
41       Delete line 10  
42 and insert:  
43       serving 65 percent of the sentence imposed; providing  
44       that a pregnant prisoner or a prisoner who is the  
45       mother of a child of a certain age is ineligible under  
46       certain circumstances to earn or receive gain-time in  
47       an amount that would cause her sentence to expire,  
48       end, or terminate after serving 65 percent of the  
49       sentence imposed; amending



440122

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Pizzo) recommended the following:

**Senate Amendment to Amendment (210990)**

Delete line 24  
and insert:  
participation in an educational or rehabilitative program is  
terminated due

By Senator Pizzo

38-01914-21

20211908\_\_

1 A bill to be entitled  
 2 An act relating to gain-time for certain women  
 3 prisoners; creating s. 944.243, F.S.; defining the  
 4 term "violent felony"; specifying that a pregnant  
 5 prisoner or a prisoner who is the mother of a child of  
 6 a certain age sentenced to a state correctional  
 7 institution is eligible under certain circumstances to  
 8 earn or receive gain-time in an amount that would  
 9 cause her sentence to expire, end, or terminate after  
 10 serving 65 percent of the sentence imposed; amending  
 11 ss. 921.002 and 944.275, F.S.; conforming provisions  
 12 to changes made by the act; providing an effective  
 13 date.  
 14  
 15 WHEREAS, the absence of the mother of a young child on a  
 16 daily basis may lead to problems and disorders connected to such  
 17 absence for the child, and  
 18 WHEREAS, a mother's presence soothes a child's stress and  
 19 helps to regulate a child's emotions, and  
 20 WHEREAS, a mother's extended absence can cause a child to  
 21 experience higher levels of stress and anxiety, and  
 22 WHEREAS, the more emotionally and physically present a  
 23 mother can be for her child, the better the chance that child  
 24 will be emotionally healthy and mentally well, NOW, THEREFORE,  
 25  
 26 Be It Enacted by the Legislature of the State of Florida:  
 27  
 28 Section 1. Section 944.243, Florida Statutes, is created to  
 29 read:

Page 1 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-01914-21

20211908\_\_

30 944.243 Gain-time for pregnant prisoners or prisoners who  
 31 are mothers of young children.—  
 32 (1) As used in this section, the term "violent felony"  
 33 means the commission of, an attempt to commit, or a conspiracy  
 34 to commit any offense enumerated in s. 775.084(1)(c)1.  
 35 (2) A prisoner sentenced to a state correctional  
 36 institution who is a pregnant prisoner as defined in s. 944.241  
 37 or who is the mother of a child 3 years of age or younger at the  
 38 time the offense or offenses were committed is eligible to earn  
 39 or receive gain-time under s. 944.275 in an amount that would  
 40 cause the sentence to expire, end, or terminate, or that would  
 41 result in the prisoner's release, after serving 65 percent of  
 42 the sentence imposed if:  
 43 (a) No offense for which the prisoner was convicted is a  
 44 violent felony;  
 45 (b) The prisoner has demonstrated good behavior while  
 46 incarcerated; and  
 47 (c) The prisoner has participated in at least one  
 48 educational or rehabilitative program while incarcerated, if  
 49 such education or rehabilitative program was available.  
 50 Section 2. Paragraph (e) of subsection (1) of section  
 51 921.002, Florida Statutes, is amended to read:  
 52 921.002 The Criminal Punishment Code.—The Criminal  
 53 Punishment Code shall apply to all felony offenses, except  
 54 capital felonies, committed on or after October 1, 1998.  
 55 (1) The provision of criminal penalties and of limitations  
 56 upon the application of such penalties is a matter of  
 57 predominantly substantive law and, as such, is a matter properly  
 58 addressed by the Legislature. The Legislature, in the exercise

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-01914-21 20211908\_\_

of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that violent criminal offenders are appropriately incarcerated, has determined that it is in the best interest of the state to develop, implement, and revise a sentencing policy. The Criminal Punishment Code embodies the principles that:

(e) The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time as provided by law, and may not be shortened if the defendant would consequently serve less than the specified percentage 85 percent of his or her term of imprisonment as provided in s. 944.275(4). The provisions of chapter 947, relating to parole, do ~~shall~~ not apply to persons sentenced under the Criminal Punishment Code.

Section 3. Subsection (4) of section 944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(4) (a) As a means of encouraging satisfactory behavior, the department shall grant basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining basic gain-time.

2. Basic gain-time for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic

38-01914-21 20211908\_\_

gain-time shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and may ~~shall~~ not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under former s. 921.0012 or former s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under former s. 921.0012 or former s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time.

38-01914-21

20211908\_\_

(c) An inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence may be granted meritorious gain-time of from 1 to 60 days.

(d) Notwithstanding the monthly maximum awards of incentive gain-time under subparagraphs (b)1., 2., and 3., the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is, or has been during the current commitment, awarded a high school equivalency diploma or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

(e) Notwithstanding subparagraph (b)3., for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

(f) Except as provided in s. 944.243, an inmate who is subject to subparagraph (b)3. is not eligible to earn or receive gain-time under paragraph (a), paragraph (b), paragraph (c), or paragraph (d) or any other type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. For purposes of this

38-01914-21

20211908\_\_

paragraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by this section, a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

Section 4. This act shall take effect July 1, 2021.



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

### AGENCY: Department of Corrections

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 1908
<b>BILL TITLE:</b>	Gain-time for Certain Women Prisoners
<b>BILL SPONSOR:</b>	Senator Pizzo
<b>EFFECTIVE DATE:</b>	<u>July 1, 2021</u>

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<b><u>CURRENT COMMITTEE</u></b>

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
No.

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	March 12, 2021
<b>LEAD AGENCY ANALYST:</b>	Michelle Palmer
<b>ADDITIONAL ANALYST(S):</b>	Mary Le, Greg Prescott
<b>LEGAL ANALYST:</b>	Ryan Orbe
<b>FISCAL ANALYST:</b>	Tommy Milito

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Creates s. 944.243, F.S., defines the term violent felony; specifies that a pregnant prisoner or a prisoner who is the mother of a child of a certain age sentenced to a state correctional institution is eligible under certain circumstances to earn or receive gain time in an amount that would cause sentence to expire, end or terminate after serving 65% of the sentence imposed; amends s. 921.002, F.S., and s. 944.275, F.S.; conforming provisions to changes made by the act; providing an effective date.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. **PRESENT SITUATION:**

##### **Gain-time**

Under current law, s. 944.275, F.S., the Florida Department of Corrections (FDC or Department) is authorized to reduce the time an inmate will serve by the award of gain-time. There are currently (5) categories used by the Department in determining the amount of gain-time an inmate could potentially be eligible for (Weaver, Waldrup, Reform, Safe Streets Initiative, Stop Turning Out Prisoners Act). All categories of inmates are still incarcerated in the Department's prison system. Approximately 90 percent of the inmates currently in Department custody fall under the Stop Turning Out Prisoners Act. As this bill does not have retroactive impact, only the gain-time application as it relates to offenses committed on or after 10/1/1995 is provided below:

Stop Turning Out Prisoners Act - Offense dates on or after 10/1/1995

Incentive gain-time (s. 944.275(4)(b), F.S.) - 0-10 days per month

Meritorious gain-time (s. 944.275(4)(c), F.S.) – Discretionary gain-time awarded at a rate of 1-60 days per award for an outstanding deed or service by an inmate.

Educational achievement award (s. 944.275(4)(d), F.S.) – A one-time award of 60 days incentive gain-time earned for receiving a high school equivalency diploma (G.E.D.) or a vocational certificate.

Educational gain-time (s. 944.801(3)(i)5, F.S.) - A one-time award of 6 days incentive gain-time earned for completing the mandatory literacy program.

85 percent minimum service requirement (s. 944.275(4)(f), F.S.) – Inmates with offense dates on or after 10/1/1995, must serve, at minimum, 85% of the term imposed. If otherwise eligible, inmates can earn up to 10 days per month; however, no award of gain-time can reduce the 85% minimum service requirement.

All monthly gain-time awards are earned; however, the methodology by which different types of gain-time are awarded varies, depending on the type of gain-time and eligibility. Despite the permissive language in Florida's gain time law (s. 944.275, F.S.), which states "may grant", Florida courts have held that the Department's discretion exists to establish the conditions under which an award of gain-time will be earned, and to determine whether or not an inmate has earned a given monthly award. The Department may not simply decline to make an award.

The most common type of monthly award is labeled "incentive gain-time". This award varies based on offense date but the mechanism for earning it is uniform. The basis for an award is work participation, training, using time constructively, or otherwise engaging in positive activities. Inmates receive an evaluation from facility staff for their conduct and their performance in assigned work or programs. These evaluations create a preliminary base gain-time recommendation, which can be increased or decreased by the inmate's classification officer based on factors set forth in rule 33-601.101. The award, as modified by classification, is the final gain-time award that is applied to the sentence.

The educational achievement gain-time in the amount of 60 days is awarded upon completion of a qualifying educational or vocational program. Meritorious gain-time is awarded based on the performance of some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate.

It should be noted that other statutory amendments have been enacted over the years that prohibit the earning of different types of gain-time for certain convictions and court-imposed provisions. (e.g., habitual offenders - no basic gain-time for offenses committed on or after 10/1/1988, principal sex offender - no basic gain-time for offenses committed on or after 10/1/1992, certain sex crimes committed on or after 10/1/2014 - no gain-time, firearm

mandatory no gain-time during mandatory minimum service requirements as a prison releasee reoffender and habitual violent offender).

The Department establishes for each inmate sentenced to a term of years a maximum release date and tentative release date, pursuant to s. 944.275, F.S. This tentative release date is the date projected for the inmate to release from custody by virtue of gain-time granted or forfeited.

### Pregnant Inmates

All newly committed female inmates receive an initial physical exam by a physician assistant, advanced practice registered nurse or a physician within 14 days of arrival. The complete physical exam includes a complete gynecological and obstetrical history, pelvic examination, serum pregnancy test, and prenatal referral for all pregnant inmates. The Department has guidelines for the health care of pregnant inmates. All pregnant inmates are housed at Lowell C.I. for the duration of pregnancy unless a medical condition prohibits transfer or housing at that facility. A senior health care professional examines the inmate as soon as possible to confirm the pregnancy, to determine the stage of pregnancy and determine an anticipated due date. The female is transferred to a contract hospital for the actual delivery and will be returned to the institution when discharged by the attending obstetrician. Postpartum care is provided at the institution according to the discharge orders of the attending obstetrician. In addition, a six-week checkup is provided by the obstetrician.

Over the last three fiscal years, the pregnant inmate population was as follows:

FY 2019/2020 - 69  
FY 2018/2019 - 101  
FY 2017/2018 - 98

A review of the 69 pregnant inmates incarcerated in FY 2019-2020 revealed the inmates were serving commitments for the following offense categories:

<i>Offense Category Description</i>	<i>Number of Inmates</i>
Murder	0
Sex Crimes	1
Robbery	4
Violent Personal Crimes	14
Burglary	9
Thefts, forgery, fraud	17
Drugs	19
Weapons	1
All Others	4

### Family Reunification/Parenting

The Department recognizes that family members are vital to the success of individuals transitioning back to the community. Maximizing the role of families in the reentry process increases public safety. By focusing on family reunification and parenting skills, the Department continues to promote stronger relationships between returning citizens and their families which correlates with increased post-release success. In addition to strengthening families' protective factors to reduce incidences of child abuse and neglect by providing parents with effective parenting strategies the, Florida Department of Corrections continues to:

- Foster visitation of family members by moving inmates closer to home, when suitable
- Partner with organizations, such as Children of Inmates
- Utilize volunteers to implement the Parenting from Inside curriculum at our institutions
- Employ video visitation and email to maintain family ties while individuals are incarcerated through both an interactive kiosk, available in each general population housing unit and secure tablets
- Incorporate family reunification/parenting programs into each contract for substance use disorder treatment services in our institutions
- Identify risk factors associated with family dynamics using the Department's evidence driven assessment, CINAS, and delivering programs and services to mitigate these risks for both inmates and offenders
- Utilize a vast list of community providers to provide offenders with programs and services designed to teach positive parenting skills and prevent abuse and neglect.



## 2. EFFECT OF THE BILL:

The bill creates s. 944.243, F.S., providing that a person sentenced to a state correctional institution who is a pregnant prisoner as defined in s. 944.241, F.S., or is the mother of a child 3 years of age or younger *at the time the offense* was committed is eligible to earn or receive gain-time under s. 944.275, F.S., in an amount that would cause the sentence or sentences to expire, end, or terminate, or that would result in the prisoner's release, after serving 65 percent of the sentence imposed. Under s. 944.241, F.S., a pregnant prisoner is defined as any prisoner whose pregnancy is confirmed by or otherwise known to a qualified health care professional *at the correctional institution*.

The language in the bill sets eligibility criteria for these specified inmates as follows:

- No offense for which the prisoner was convicted is a violent felony
- The prisoner has demonstrated good behavior while incarcerated
- The prisoner has participated in at least one educational or rehabilitative program while incarcerated, if such education or rehabilitative program was available.

The bill amends s. 921.002, F.S., (Criminal Punishment Code), striking 85 percent and adding "the specified percentage"; thus, allowing inmates eligible under the proposed s. 944.243, F.S., the ability to reduce below the current 85% minimum service requirement.

### Gain-time

The bill retains the monthly gain-time process as outlined in s. 944.275, F.S., by which, the Department may grant up to 10 days per month of incentive gain-time. The bill adds language to s. 944.275, F.S., providing an exception under s. 944.23, F.S., that would allow eligible inmates to reduce below the 85 percent minimum service requirement. The bill does not change the existing maximum 10-day monthly gain-time award; therefore, the earliest an inmate could be released would be after service of 75 percent of the term imposed. There is no way for an inmate to be released after serving 65 percent of the sentence imposed with the current 10-day maximum award.

Currently, gain-time is based on good behavior and is assessed monthly. It is unclear how the Department would apply an additional generic eligibility factor of "good behavior while incarcerated".

### Age/Verification:

Information about inmate families is self-reported and not verified by Department staff. To implement the bill's changes, the Department would need to create a verification process to confirm pregnancy or the age of the child at the time of the offense. It may be difficult for a professional at a correctional institution to know if a woman was pregnant at the time the offense was committed. Creating a verification process and research will create an additional workload on staff. In addition, the bill does not provide for disqualifiers that would render an inmate ineligible. For example, the mother may have given the child over for adoption, parental rights have been terminated either voluntarily or involuntarily, or the mother may have miscarried.

If the intent of the bill is to provide a means for mothers of younger children to have an opportunity to release earlier in order to be returned to the family, the "at the time of the offense" language may create unintended outcomes. For example, there will likely be persons who, at the time of offense, may have had children 3 years of age or younger; however, were originally sentenced to supervision. In the event the offender absconds/violates supervision and receives a subsequent prison sentence, those children could now be of any age greater than 3.

The below chart provides the number of female inmates whose records indicate 3+ years between offense date and imposition date or 3+ years between offense date and date of admission into the custody of the Department on at least one of their sentences:

Year	3+ Years – All Offenses	3+ years – Nonviolent Offenses 775.084(1)(c)(1)
2016	713	541
2017	704	523
2018	693	514
2019	668	482
2020	346	228

### Violent Felony

The bill defines violent felony as commission, attempt to commit, or conspiracy to commit any offense enumerated in s. 775.084(1)(c)(1), F.S. While s. 775.084(1)(c)(1), F.S., does include aggravated child abuse, it does not list child abuse or child neglect as a violent offense. The Department records indicate the following number of female inmates were received with convictions for child abuse or child neglect. These numbers include all female inmates, not just pregnant inmates:

CY 2020 - 64  
 CY 2019 - 99  
 CY 2018 - 127  
 CY 2017 - 101  
 CY 2016 - 102

The bill language does not specify if violent felony applies only for current convictions or if it includes prior convictions or subsequent convictions. Under the language of the bill, if an eligible inmate is received into the Department on a nonviolent felony; however, later receives an additional conviction for a violent felony, the inmate would no longer be able to reduce below the 85 percent minimum service requirement on the sentence for the nonviolent offense, effective the date of conviction on the new violent felony.

### Rehabilitative Programs:

The bill authorizes decreased service of sentence if the inmate has participated in at least one educational or rehabilitative program while incarcerated, “if” such education or rehabilitative program was available. The bill does not define rehabilitative program. The Department would be required to adopt rules that would determine what is considered rehabilitative; however, this will likely create additional litigation. It is unclear if the inmate would be eligible to reduce below the 85 percent minimum service requirement if the educational/rehabilitative programs are not available.

The bill has no retroactive impact and would apply to persons whose crimes were committed on or after the effective date of the bill. Additional programming will be required in order to record and track those inmates who meet the eligibility requirements as well as programming edits to the current release date calculator to allow reductions of release dates below the 85 percent minimum service requirement. While the bill would potentially reduce the inmate population over time, as the Department has no way of knowing how many inmates would meet the parameters of the bill, the overall impact is indeterminate.

The bill provides an effective date of July 1, 2021. The Department would request this be extended to allow for programming and testing of the release date calculator.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>

Rule(s) impacted (provide references to F.A.C., etc.):	
--	--

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**Y ☐ N ☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS****1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☐ N ☐

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☐ N ☐

Revenues:	Indeterminate
-----------	---------------

Expenditures:	<p>If this bill is passed, the overall inmate and community supervision population fiscal impact is indeterminate. However, it is anticipated that there is a potential of a decrease in prison admissions and an increase in Community Corrections admissions.</p> <p>When inmate population is impacted in small increments statewide, the inmate variable per diem of \$22.29 is the most appropriate to use. This per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The Department's FY 19-20 average per diem for community supervision was \$6.01</p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☐**

Revenues:	Unknown
Expenditures:	Unknown
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☐**

If yes, explain impact.	
Bill Section Number:	

## TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The Department would likely absorb the minimal technology impact cost associated with the need to reprogram systems.</p> <p>Cost Estimate</p> <p>Estimated Hours: 450</p> <p>Estimated Cost Per Hour: \$87.00</p> <p>Estimated Total Cost: \$39,150</p>
--	--

## FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	
--	--

## ADDITIONAL COMMENTS

N/A.

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>One legal issue may be that the definition of "pregnant prisoner" in s. 944.241, F.S., requires pregnancy confirmation by or otherwise to be known by a qualified health care professional at the correctional institution.</p> <p>Section 944.243(2), F.S., includes the clause, "at the time the offense or offenses were committed..." Because there are no commas offsetting that clause, it appears meant to apply both to a pregnant prisoner and to a mother of a child 3 years of age or younger.</p> <p>Obviously, it may be difficult for a professional at a correctional institution to know if a woman was pregnant at the time the offense was committed. It is not clear if the condition of being pregnant at the time the offense was committed (even, if for example, the mother later miscarried) is a fact that alone would require the Department to release a prisoner at reaching 65 percent of her sentence served.</p>
---------------------------	--

	<p>Additionally, the clause “at the time the offense or offenses were committed” as to a mother of a child 3 years of age or younger requires consideration. If a mother has one 3 year old child and commits a felony, but it takes longer than a year for the mother to go through the court process and be received into the Department’s custody, the mother would still be eligible to have gain-time reduce her sentence to the 65 percent threshold even though the child may be 4 or older at that point.</p> <p>The bill conditions this eligibility on not being convicted of a violent felony listed in s. 775.084((1)(c)1, F.S. (arson, sexual battery, etc.) The prison must also have demonstrated good behavior while incarcerated and have participated in at least one educational or rehabilitative program while incarcerated if such a program was available. (Lines 43-49) Noteworthy, the bill does not require successful completion of a program, only participation.</p> <p>The good behavior requirement is somewhat vague. Currently, disciplinary action that results in the forfeiture of gain-time will affect the amount of gain-time available to an inmate. Thus, the “good behavior” requirement is somewhat redundant to the concept of incentive gain-time.</p> <p>The only entity that could assess “good behavior” would have to be the Department, and whether single disciplinary action would render such an inmate ineligible for the 65 percent, is an issue that would likely be litigated.</p> <p>Section 2 amends the Criminal Punishment Code to provide for this new 65 percent possibility.</p> <p>Section 3 amends the gain-time statute, s. 944.275(4)(f), F.S., to except inmates who would be able to take advantage of newly created s. 944.273, F.S., from the 85 percent of sentence minimum. The bill does not state it is to be applied retroactively. However, it should be noted that (4)(f) applies to inmates whose offenses were committed on or after October 1, 1995. It certainly is possible that there could be litigation by female inmates in custody who had a child 3 years of age or younger at the time of their offenses even if it precedes the date this law would take effect.</p>
--	--

---

**From:** Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>  
**Sent:** Monday, March 15, 2021 8:49 AM  
**To:** Siples, Yolanda <Siples.Yolanda@flsenate.gov>; Taylor, Chris <WillardChris.Taylor@fdc.myflorida.com>  
**Cc:** Torres, Jared <Jared.Torres@fdc.myflorida.com>; Lyons, Brittany <Brittany.Lyons@fdc.myflorida.com>  
**Subject:** RE: Request for Agency Analysis of SB 1908

Yolanda,

Research and Data advised that “violent personal crimes” include crimes such as: Aggravated Battery, Kidnapping, Arson, Assault/Battery on LEO. Please let us know if you need anything else.

Thanks,

Scotti

---

**From:** Vaughan, Scotti  
**Sent:** Monday, March 15, 2021 8:19 AM  
**To:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>; Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>  
**Cc:** Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Lyons, Brittany <[Brittany.Lyons@fdc.myflorida.com](mailto:Brittany.Lyons@fdc.myflorida.com)>  
**Subject:** RE: Request for Agency Analysis of SB 1908

Hi Yolanda! I will check with Research and Data and follow up. Thanks!

---

**From:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>  
**Sent:** Monday, March 15, 2021 8:06 AM  
**To:** Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>  
**Cc:** Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Vaughan, Scotti <[Scotti.Vaughan@fdc.myflorida.com](mailto:Scotti.Vaughan@fdc.myflorida.com)>; Lyons, Brittany <[Brittany.Lyons@fdc.myflorida.com](mailto:Brittany.Lyons@fdc.myflorida.com)>  
**Subject:** RE: Request for Agency Analysis of SB 1908

Hi Chris,

I have one quick question about the analysis. On page 3 of the analysis, there is a chart of crimes for which the pregnant inmates in FY 2019-2020 we serving. One of the categories is "violent personal crimes." Would you tell me which crimes you have included in this category?

Thank you,

Yolanda

---

**From:** Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>  
**Sent:** Friday, March 12, 2021 2:06 PM  
**To:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>  
**Cc:** Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Vaughan, Scotti <[Scotti.Vaughan@fdc.myflorida.com](mailto:Scotti.Vaughan@fdc.myflorida.com)>; Lyons, Brittany <[Brittany.Lyons@fdc.myflorida.com](mailto:Brittany.Lyons@fdc.myflorida.com)>  
**Subject:** Request for Agency Analysis of SB 1908

Good afternoon Yolanda,

Please see the attached and the analysis was also uploaded to ABAR.

Thank you,

**Chris Taylor**

Legislative Specialist  
Florida Department of Corrections  
501 South Calhoun Street  
Tallahassee, Florida 32399  
Direct: 850-717-3965  
Cell: 850-274-8184



***Inspiring Success by Transforming One Life at a Time***

Respect ★ Integrity ★ Courage ★ Selfless Service ★ Compassion

**CONFIDENTIALITY & PUBLIC RECORDS NOTICE:** This message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and privileged information that is exempt from public disclosure. Any unauthorized review, use, disclosure, or distribution is prohibited. If you have received this message in error, please contact the sender by phone and destroy the original and all copies. Please be aware that the State of Florida has a broad public records law and that any correspondence sent to this email address may be subject to public disclosure.



**From:** Vaughan, Scotti <[Scotti.Vaughan@fdc.myflorida.com](mailto:Scotti.Vaughan@fdc.myflorida.com)>  
**Sent:** Friday, March 12, 2021 12:04 PM  
**To:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>; Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>  
**Subject:** RE: Request for Agency Analysis of SB 1908

Hi Yolanda! It is in the review process and we should have it to you today.

Thanks,

Scotti

---

**From:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>  
**Sent:** Friday, March 12, 2021 11:55 AM  
**To:** Vaughan, Scotti <[Scotti.Vaughan@fdc.myflorida.com](mailto:Scotti.Vaughan@fdc.myflorida.com)>; Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>  
**Subject:** RE: Request for Agency Analysis of SB 1908

Good afternoon,

I was checking on the status of the analysis for SB 1908.

Thanks,

Yolanda

---

**From:** Vaughan, Scotti <[Scotti.Vaughan@fdc.myflorida.com](mailto:Scotti.Vaughan@fdc.myflorida.com)>  
**Sent:** Tuesday, March 9, 2021 10:40 AM  
**To:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>; Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>  
**Subject:** RE: Request for Agency Analysis of SB 1908

Hi Yolanda,

Thanks for sending this over. Staff are working on the analysis and we will get it to you as soon as possible.

Thanks,

Scotti

---

**From:** Siples, Yolanda <[Siples.Yolanda@flsenate.gov](mailto:Siples.Yolanda@flsenate.gov)>  
**Sent:** Tuesday, March 9, 2021 10:28 AM  
**To:** Torres, Jared <[Jared.Torres@fdc.myflorida.com](mailto:Jared.Torres@fdc.myflorida.com)>; Taylor, Chris <[WillardChris.Taylor@fdc.myflorida.com](mailto:WillardChris.Taylor@fdc.myflorida.com)>; Vaughan, Scotti <[Scotti.Vaughan@fdc.myflorida.com](mailto:Scotti.Vaughan@fdc.myflorida.com)>

**Subject:** Request for Agency Analysis of SB 1908

Good morning,

I am requesting the agency's analysis of SB 1908 – Gain-Time for Certain Women Prisoners (Pizzo). If possible, I would like to have the analysis by Friday, March 12.

Thank you,

Yolanda

Yolanda L. Siples  
Criminal Justice Committee  
Florida Senate  
510 Knott Building  
404 S. Monroe St.  
Tallahassee, FL 32311  
850-487-5197  
[Siples.yolanda@flsenate.gov](mailto:Siples.yolanda@flsenate.gov)

## **SB 1908 – Gain-time for Certain Women Prisoners**

This bill creates s. 944.243, F.S., stating that “a prisoner sentenced to a state correctional institution who is a pregnant prisoner...or who is the mother of a child 3 years of age or younger at the time the offense or offenses were committed is eligible to earn or receive gain-time...in an amount that would cause the sentence to expire, end, or terminate, or that would result in the prisoner’s release, after serving 65 percent of the sentence imposed if...no offense for which the prisoner was convicted is a violent felony...the prisoner has demonstrated good behavior while incarcerated...and the prisoner has participated in at least one educational or rehabilitative program while incarcerated, if such education or rehabilitative program was available.”

Per DOC, in FY 18-19, there were 101 pregnant inmates in the prison population, and in FY 19-20, there were 69 pregnant inmates. It is not known how many inmates in the prison population were mothers of children that were 3 years of age or younger. Additionally, by keeping the gain-time award at 10 days per month, shortening the time served to 65% would probably provide a smaller impact initially, since short sentence inmates do not have time to reach the 85% threshold, whereas the impact would be greater for inmates with longer sentences and would take time to be realized in its impact on beds.

**EDR PROPOSED ESTIMATE: Negative Indeterminate**

**Requested by: Senate**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

1908

Bill Number (if applicable)

Topic

Main Time for Certain Women

Amendment Barcode (if applicable)

Name

Barbara DeVane

Job Title

Address

625 E Brevard St

Phone

251-4280

Street

Tallahassee

FL

City

State

32308

Zip

Email

barbadevane1@

yahoo.com

Speaking:

☐

For

☐

Against

☐

Information



Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL NOW

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/2021  
Meeting Date

1908  
Bill Number (if applicable)

Topic Gain-time for Certain Women

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee FL 32301  
City State Zip

Email fcfep@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

1908

Bill Number (if applicable)

Topic Gain time for certain women

Amendment Barcode (if applicable)

Name Kristellys Estanga

Job Title Aide to city commissioner

Address 406 W 8th Ave

Phone 9548049010

Street

Tallahassee

FL

32303

City

State

Zip

Email Kristellys@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-16-2021

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1908

Bill Number (if applicable)

Topic Gain time For Women

Amendment Barcode (if applicable)

Name Jacqueline Miner

Job Title Student

Address 800 Basin St

Street

Phone 813-943-5612

Tallahassee

City

FL

State

32304

Zip

Email Jackie Miner 02@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

1908

*Bill Number (if applicable)*

Topic Gain Time for Certain Women Prisoners

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

*Street*

Tallahassee

FL

32308

Email Greg@WaypointStrat.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/2021

Meeting Date

1908

Bill Number (if applicable)

Topic Gain Time for Certain Women Prisoners

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title \_\_\_\_\_

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

Email TcgLobby@aol.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

1908

Bill Number (if applicable)

Topic

Gain Time for Certain Women Prisoners

Amendment Barcode (if applicable)

Name

Ida V. Eskamani

Job Title

Address

Street

Phone

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Rising

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/16/21

*Meeting Date*

1908

*Bill Number (if applicable)*

Topic Gain-time for Certain Women Prisoners

*Amendment Barcode (if applicable)*

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

Phone 850-488-6850

*Street*

Tallahassee

Fl

32301

Email ndaniels@flpda.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

1908

*Bill Number (if applicable)*

Topic Gain Time for Women Prisoners

*Amendment Barcode (if applicable)*

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

*Street*

Tallahassee

FL

32303

Email carrie.boyd@splcenter.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

SB 1908

Bill Number (if applicable)

Topic Criminal Justice - Gain time for certain

Amendment Barcode (if applicable)

Name Laurette Philipson

women prisoners

Job Title 0

352-533-7202

Address 7240 Westwind

Phone

Street

Port Lichey

FL

34668

City

State

Zip

Email advocatephilipson@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 1970

INTRODUCER: Criminal Justice Committee and Senators Pizzo and Rodriguez

SUBJECT: Law Enforcement Reform

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	<b>Fav/CS</b>
2.			ACJ	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1970 makes the following changes to training and practices:

- Includes a declaration of an important state interest;
- Limits use of restraint techniques that requires the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea to those situations in which deadly force is authorized;
- Requires the Criminal Justice Standards and Training Commission (CJSTC) to:
  - Provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers;
  - Establish and maintain standards for instruction of officers in the subjects of deescalation techniques, procedural justice training, implicit bias training, and the duty to intervene if another officer uses excessive or unnecessary force;
  - Specify what must be included in the minimum standards for deescalation training;
  - Provide written guidance to law enforcement agencies on compliance with minimum standards relating to deescalation training;
  - Create a model written policy on deescalation training; and
  - Collect data regarding the implementation of training programs and annually report such data to the Legislature (as specified in bill);
- Requires that law enforcement agencies adopt a written policy stating that each of the law enforcement officers in its employ has an affirmative duty to use de-escalation techniques in his or her interactions with citizens whenever possible;

- Requires that deescalation techniques and other specified aspects of law enforcement be addressed in the state law enforcement accreditation program; and
- Requires deescalation training in basic recruit training and continued employment training.

The bill contains numerous training requirements and other requirements that may impact local law enforcement agencies. These requirements may cause county and municipal governments to spend funds. The impact of the bill on local governments is indeterminate.

The Florida Department of Law Enforcement (FDLE) states that development of the training curricula will cost approximately \$12,648 and the bill will require technological modifications totaling approximately \$37,000. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

## II. Present Situation:

“The killing of George Floyd in Minneapolis has prompted police departments around Florida to review their policies, procedures and training.”<sup>1</sup> A 2017 workgroup of the CJSTC noted that “[o]ne of the biggest challenges in law enforcement today involves strengthening the bonds of trust between law enforcement officers and the communities they serve.”<sup>2</sup> “The relationship between communities and their law enforcement agencies are often characterized by varying degrees of suspicion and mistrust. Over time, that contributes to cynicism in both groups and creates barriers to good faith cooperation.”<sup>3</sup>

There are numerous measures that police agencies are taking to improve law enforcement-community relations and enhance the effectiveness of policing, including but not limited to, standards and training on limiting the use of chokeholds and neck restraints, a duty of an officer to intervene when the officer witnesses another officer using excessive force, deescalation techniques, mental health issues, procedural justice, and implicit bias.

### Training Requirements for Florida Law Enforcement Officers

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law enforcement officer. The FDLE provided the following information regarding basic recruit training on subjects addressed in the bill:

The law enforcement basic recruit training curriculum incorporates training on implicit bias, de-escalation, procedural justice, crisis intervention with individuals suffering from

---

<sup>1</sup> Amy Martinez, Florida police departments review policies, procedures and training (Nov. 25, 2020), Florida Trend, available at <https://www.floridatrend.com/article/30313/florida-police-departments-review-policies-procedures-and-training>

<sup>2</sup> *Strengthening the Bonds of Trust between Law Enforcement and the Public* (Community Safety Recommendations) (May 11, 2017), Florida Criminal Justice Standards and Training Commission (CJSTC), available at [https://www.fdle.state.fl.us/CJSTC/Documents/Publications/Community\\_Safety\\_Report\\_Adopt\\_May\\_11\\_17.aspx](https://www.fdle.state.fl.us/CJSTC/Documents/Publications/Community_Safety_Report_Adopt_May_11_17.aspx) (last visited March 10, 2021). This report is further cited as “CJSTC report (May 11, 2017).”

<sup>3</sup> As Volusia County Sheriff Mike Chitwood noted, “[w]e’re not the Marines. We’re not at war with our community. The overwhelming majority of the people we come into contact with are law-abiding citizens[.]” See footnote 1, *supra*.

physical or mental disabilities and recognition of individuals with physical and mental disabilities, mental health issues, and substance abuse issues. The training may be threaded through the curriculum as opposed to a specific course within the curriculum.

Currently, most of the training required in the bill is included in the basic recruit training programs (BRTPs), especially law enforcement BRTP. For instance, use of force, de-escalation, diversity and mental health/crisis intervention are covered, but duty to intervene is not. Additionally, the law enforcement BRTP is not broken down by lesson hours. Therefore, it's not possible to pinpoint how many hours are devoted to specific topics, as they are threaded throughout the BRTP and within the scenario-based role play and communication exercises....<sup>4</sup>

According to the FDLE, CJSTC staff surveyed the state's training centers and was provided the following range/breakdown of hours included in the law enforcement BRTP for use of force, de-escalation, diversity and mental health/crisis intervention:

- Use of Force: 26-152 hours.
- De-escalation: 22-90 hours.
- Diversity: 15-101 hours.
- Mental Health/Crisis Intervention: 6-78 hours.<sup>5</sup>

The FDLE also provided the following information on continued employment training:

In addition, in order to maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, F.S. This statute requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every four years. The employing agency must document continuing training or education is job-related and consistent with the needs of the employing agency and report completion to CJSTC through the Automated Training Management System (ATMS).<sup>6</sup>

Additional information on training is provided in the discussion below of subject matter addressed by the bill.

### **Chokeholds and Neck Restraints**

The case of George Floyd focused national attention on the use of chokeholds and neck restraints and the duty on an officer to intervene when the officer witnesses another officer using excessive force. Mr. Floyd, a resident of Minneapolis, was arrested and restrained by a Minneapolis police officer named Derek Chauvin. According to news reports, for nearly nine minutes and despite Mr. Floyd repeatedly complaining that he could not breathe, Officer Chauvin pinned Mr. Floyd's head to the ground by pressing his knee to the side of Mr. Floyd's neck. It was also reported that three other Minneapolis police officers at the scene who witnessed the neck restraint did not

---

<sup>4</sup> 2021 FDLE Legislative Bill Analysis (SB 1970) (March 8, 2021), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). This analysis is further cited as "2021 FDLE Legislative Bill Analysis (SB 1970)."

<sup>5</sup> *Id.* "This information is based on the current 2020 law enforcement BRTP. The 2021 law enforcement BRTP, effective July 1, 2021, includes additional training on these topics." *Id.*

<sup>6</sup> *Id.*



intervene to stop it. Mr. Floyd's death was assessed to be a homicide and Officer Chauvin and the witnessing officers were charged.<sup>7</sup>

There is a dispute over whether Minneapolis police officers were trained in the knee-to-neck technique used on Mr. Floyd<sup>8</sup> but some law enforcement experts consider the technique to be dangerous and unnecessary<sup>9</sup> and some police departments have banned its use.<sup>9</sup>

The FDLE states that "CJSTC considers excessive use of force as a moral character violation and can discipline an officer's certification for a sustained violation including the use of any technique if the use of that technique is deemed to be excessive by the officer's employing agency."<sup>10</sup>

### Use of Force

Section 776.05, F.S., provides that a law enforcement officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- When necessarily committed in retaking felons who have escaped;<sup>11</sup> or
- When necessarily committed in arresting felons fleeing from justice. However, this does not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force<sup>12</sup> was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

<sup>7</sup> See, e.g., *Timeline: Key events in the month since George Floyd's death* (June 25, 2020), Reuters, available at <https://www.reuters.com/article/us-minneapolis-police-usa-onemonth-timeline-key-events-in-the-month-since-george-floyds-death-idUSKBN23W1NR> (last visited March 10, 2021) and Amir Vera, *Independent autopsy and Minnesota officials say George Floyd's death was homicide* (June 2, 2020), CNN, available at <https://www.cnn.com/2020/06/01/us/george-floyd-independent-autopsy/index.html> (last visited March 10, 2021).

<sup>8</sup> Gregory Hoyt, *Report: Minneapolis Police Department training materials show knee-to-neck restraint similar to the one used on Floyd* (July 9, 2020), Law Enforcement Today, available at <https://www.lawenforcementtoday.com/former-officer-in-floyd-case-cites-mpd-training-on-neck-restraints/> (last visited March 10, 2021).

<sup>9</sup> Scottie Andrew, *The move used to restrain George Floyd is discouraged by most police. Here's why* (May 29, 2020), CNN, available at <https://www.cnn.com/2020/05/28/us/george-floyd-knee-to-neck-excessive-force-trnd/index.html> (last visited March 10, 2021).

<sup>10</sup> 2021 FDLE Legislative Bill Analysis (SB 1970), *supra*.

<sup>11</sup> See s. 776.07, F.S., which provides that a law enforcement officer or other person who has an arrested person in his or her custody is justified in the use of any force which he or she reasonably believes to be necessary to prevent the escape of the arrested person from custody. The statute further provides that a correctional officer or other law enforcement officer is justified in the use of force, including deadly force, which he or she reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

<sup>12</sup> As applied to a law enforcement officer or correctional officer acting in the performance of his or her official duties, the term "deadly force" means force that is likely to cause death or great bodily harm and includes, but is not limited to: the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and the firing of a firearm at a vehicle in which the person to be arrested is riding. Section 776.06(1), F.S. "Deadly force" does not include the discharge of a firearm by a law enforcement officer or correctional officer during and within the scope of his or her official duties which is loaded with a "less-lethal munition" (a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body). Section 776.06(2)(a), F.S. A

- The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
- The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.<sup>13</sup>

An excessive force claim under 42 U.S.C. s. 1983<sup>14</sup> that “arises in the context of an arrest or investigatory stop of a free citizen ... is most properly characterized as one invoking the protections of the Fourth Amendment.”<sup>15</sup> An “objective reasonableness” standard is used, the “proper application” of which “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”<sup>16</sup> “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”<sup>17</sup> “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”<sup>18</sup>

According to the FDLE, training on use of force is interwoven into the following curricula:

### ***Basic Recruit Training***

- Legal (64-hour course)
  - Contains all of the legal terminology related to use of force;
  - Firearms (80-hour course);
  - Contains a section on making use-of-force decisions;
  - Defensive tactics (80-hour course); and
  - Contains a section on making use-of-force decisions.
- Conducted Electrical Weapon/Dart-Firing Stun Gun (8-hour course)
  - Contains a section on making use-of-force decisions.
- Traffic Stops (30-hour course)
  - Discusses discriminatory profiling and how to interact with drivers.

---

law enforcement officer is not liable in any civil or criminal action arising out of the use of any less-lethal munition in good faith during and within the scope of his or her official duties. Section 776.06(2)(b), F.S.

<sup>13</sup> Section 776.05, F.S. Law enforcement officers are also “eligible to assert Stand Your Ground immunity, even when the use of force occurred in the course of making a lawful arrest.” See *State v. Peraza*, 259 So.3d 728, 733 (Fla. 2018), discussing ss. 776.012 and 776.032(1), F.S.

<sup>14</sup> “Section 1983 provides an individual the right to sue state government employees and others acting ‘under color of state law’ for civil rights violations. Section 1983 does not provide civil rights; it is a means to enforce civil rights that already exist.” *Civil Rights in the United States*, Law Library, Univ. of Minn. Law School, available at <https://libguides.law.umn.edu/c.php?g=125765&p=2893387#:~:text=Section%201983%20provides%20an%20individual,civil%20rights%20that%20already%20exist> (last visited March 10, 2021).

<sup>15</sup> *Graham v. Connor*, 490 U.S. 386, 394 (1989).

<sup>16</sup> *Id.* at 396 (citation omitted).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 396-397.

***Post-Basic Training***

- Defensive Tactics Instructor Course (Instructor course #802) (80-hour course). This course is divided into 6 units:
  - The role of the instructor in teaching use of force;
  - Decision-making;
  - Levels of resistance;
  - Deescalation;
  - Use-of-force guidelines; and
  - Legal issues around use of force.
- Advanced Defensive Tactics Course (Advanced course #1405). This course contains:
  - Understand the use of reasonable and necessary force when taking a suspect into custody, when working in a correctional environment, or when defending self or others;
  - Objective reasonableness;
  - Authority to use force;
  - Structure of the force guidelines;
  - Subject resistance levels;
  - Officer response options;
  - Factors for deciding to use deadly force; and
  - Totality of circumstances.
- Advanced Report Writing and Review (Advanced course #068). It is estimated that 3 hours of this 40-hour course covers the use of force. This course contains:
  - Writing a use-of-force report;
  - Factors of the *Graham v. Connor* case related to the use of force;
  - Factors that help an officer articulate a reasonable response to resistance;
  - The difference between the use of specific facts and vague conclusions when articulating force;
  - The importance of an accurate use-of-force report; and
  - Writing an accurate and complete use-of-force report.
- Line Supervision (Advanced course #006). It is estimated that 2 hours of this 80-hour course cover the use of force. This course discusses:
  - Officers must follow their department's use-of-force policy;
  - The potential liability associated with use-of-force incidents;
  - An officer's response should be objectively reasonable and necessary based upon the subject's resistance and the totality of the circumstances;
  - Section 776.05, F.S.—Law enforcement officers; use of force in making an arrest;
  - Section 944.35, F.S.—Authorized use of force (corrections); and
  - A review of the CJSTC force guidelines.
- Discipline and Special Confinement Techniques (Advanced course #057). It is estimated that 4 hours of this 40-hour course covers the use-of-force topic. The course discusses:
  - Use of force as legal guidelines regarding the use of force to apprehend a suspect, make an arrest, or defend self or others;
  - Statutes, rules, and policies and procedures which relate to the use of force within county and state correctional facilities;
  - Guidelines for handling violent inmates as per s. 944.35, F.S.; and

- Procedures for reporting use of physical force in state, county, and municipal correctional facilities.<sup>19</sup>

### **Duty to Intervene**

Florida law does not specify that a law enforcement officer has a duty to intervene when the officer witnesses another officer using excessive force. However, “an officer who is present at the scene and who fails to take reasonable steps to protect the victim of another officer’s use of excessive force, can be held liable [under 42 U.S.C. s. 1983] for his nonfeasance.”<sup>20</sup>

According to the FDLE, the duty to intervene is not taught at the basic recruit training level, since the duty is dictated at the agency level by agency policy. At the post-basic training level, a course titled Line Supervision (Advanced course #006):

- Describes federal and state laws that impact supervisory practices and methods for successful interventions. The most common area of liability against a supervisor over the last decade is “failure to intervene,” which applies to any supervisor who fails to stop or intercede in an unconstitutional act;
- Instructs that a supervisor may be held criminally liable if he or she knows that their officers are violating peoples’ constitutional rights and choose not to intervene; and
- Instructs that if a supervisor knows his or her officers are involved in misconduct and fails to take corrective action, the supervisor may be held liable.<sup>21</sup>

### **Deescalation Techniques**

“The term de-escalation generally refers to the act of moving from a state of high tension to a state of reduced tension[.] In law enforcement, minimizing danger and tension in potentially volatile situations is a daily responsibility.”<sup>22</sup> As one commentary notes, “[o]ne of the enduring myths about policing involves the idea that police officers are primarily crime fighters.”<sup>23</sup> The majority of a patrol officer’s duties “are focused on service activities, maintaining peace and order, and problem-solving[.]”<sup>24</sup>

In an ideal situation, the officer may evaluate the nature of the call by, for example (1) allowing people to give their side of the story; (2) explaining what the officer is doing, what the person can do, and what is going to happen; (3) telling the person why the officer is taking action; and (4) acting with dignity and leaving the person with their dignity. Knowing that even in the most reasonable circumstance, people will not always

<sup>19</sup> *Senate CJ Committee Questions*, 7-24-2020, Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). This document is further cited as “*Senate CJ Committee Questions*, 7-24-2020.”

<sup>20</sup> *Fundiller v. City of Cooper City*, 777 F.2d 1436, 1442 (11th Cir. 1995).

<sup>21</sup> *Senate CJ Committee Questions*, 7-24-2020, *supra*.

<sup>22</sup> Janet R. Oliva, Rhiannon Morgan, and Michael T. Compton, *A Practical Overview of De-Escalation Skills in Law Enforcement: Helping Individuals in Crisis While Reducing Police Liability and Injury*, *Journal of Police Crisis Negotiations*, 10:15–29, 2010, at p. 18, available at <https://de-escalate.org/wp-content/uploads/2019/02/A-Practical-Overview-of-De-Escalation-Skills-in-Law-Enforcement.pdf> (last visited March 10, 2021). This resource is further cited as “Oliva, Morgan, and Romano (2010).”

<sup>23</sup> *Id.* at 15.

<sup>24</sup> *Id.*

comply, an officer maintains a set of strategies that consider officer and public safety, and what actions are in the best interest of the public.<sup>25</sup>

“When police officers de-escalate a crisis, they conduct an intervention that will assist the individual in crisis in regaining control emotionally and resolve or reduce the crisis to a manageable state. This response is similar to other law enforcement strategies that require communication and negotiation skills, knowledge, tactics, and officer-safety techniques.”<sup>26</sup> Intervention techniques have often focused on the traditional, linear use of force continuum:

- Officer presence (officer at the scene as deterrence);
- Verbalization (e.g., calm, nonthreatening commands);
- Empty-hand control (e.g., soft restraint techniques like grabbing, holding, and joint locks, and hard restraint techniques like hitting, kicking, or other physical action);
- Less-than-lethal methods of physical force (e.g., chemicals sprays, Tasers, batons, or nonlethal projectiles); and
- Lethal force.<sup>27</sup>

Some have criticized the use of force continuum as being over simplistic and suggesting that the only response to a conflict is escalating force until the conflict is resolved.<sup>28</sup> For example, the Police Executive Research Forum (PERF) has recommended the Critical Decision-Making Model (CDM).<sup>29</sup> PERF explains:

The CDM teaches officers to start asking themselves the following types of questions as soon as they get a call:

“What do I know about what is happening at the scene of this call? Is there a history of previous calls at this location? What do we know about the person who made the call? Is there any indication of a mental health issue at this call? Is there a person with a weapon at the scene?”

And then, after arriving at the scene, officers are taught to keep asking questions as they work through a 5-step process:

1. Collect information.
2. Assess the situation, threats, and risks.
3. Consider police powers and agency policy.
4. Identify options and determine best course of action.
5. Act, review, and re-assess.<sup>30</sup>

According to the FDLE, training on deescalation is interwoven into the following curricula:

---

<sup>25</sup> CJSTC report (May 11, 2017), *supra*, at p. 11.

<sup>26</sup> Oliva, Morgan, and Romano (2010), *supra*, at p. 18.

<sup>27</sup> See Oliva, Morgan, and Romano (2010), *supra*, at pp. 18-19 and The Use-of-Force Continuum (Aug. 3, 2009), The National Institute of Justice, available at <https://nij.ojp.gov/topics/articles/use-force-continuum> (last visited March 10, 2021).

<sup>28</sup> PERF Daily Critical Issue Report (June 15, 2020), Police Executive Research Forum, available at <https://www.policeforum.org/criticalissuesjune15> (last visited March 10, 2021).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

***Basic Recruit Training***

- Defensive Tactics (80-hour course)
  - Deescalation is taught in Defensive Tactics from a different standpoint than deescalating through communication. Deescalation in Defensive Tactics teaches the officer to immediately reduce their use of force during an already established use-of-force situation once they gain the subject's compliance.
- Interactions in a Diverse Community (40-hour course)
  - Deescalation of a situation through communication is taught as a part of professional communication and resolving conflicts.

***Post-Basic Training***

- Defensive Tactics Instructor Course (Instructor course #802). This course is divided into 6 units:
  - The role of the instructor in teaching use of force;
  - Decision-making;
  - Levels of resistance;
  - Deescalation;
  - Use-of-force guidelines; and
  - Legal issues around the use of force.
- Advanced Defensive Tactics Course (course #1405). This course contains a unit on the use of force, including a discussion of escalation, deescalation, and disengagement.
- Field Training Officer Course (Advanced course #809) . This course contains:
  - Use-of-force evaluation: Maintains control without excessive force; applies appropriate force by policy; deescalates force when resistance is overcome; and precedes to apply force with appropriate warnings; and
  - Role-play exercise assesses if the new officer knows how to use interpersonal skills to de-escalate a volatile situation.
- Crisis Intervention for School Resource Officers (Specialized course #1401)
  - Deescalation is one of the primary skills incorporated throughout the course, including:
  - Deescalating students with mental health challenges (e.g., anxiety, autism, aggressive behaviors); and
  - Deescalation techniques to calm students and respond to crisis situations.<sup>31</sup>

**Crisis Intervention and Mental Health Issues**

According to the National Alliance on Mental Illness (NAMI), “[t]he lack of mental health crisis services across the U.S. has resulted in law enforcement officers serving as first responders to most crises.”<sup>32</sup>

While the causes [of a crisis] can vary greatly, anyone can be susceptible to experiencing a crisis. Individuals with serious mental illnesses like psychotic disorders (e.g.,

<sup>31</sup> *Senate CJ Committee Questions, 7-24-2020, supra.*

<sup>32</sup> *Crisis Intervention Team (CIT) Programs*, National Alliance on Mental Illness, available at [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs) (last visited March 10, 2021).

schizophrenia) who are in crisis may have trouble with reality testing, experiencing delusions (fixed false beliefs) or hallucinations (a misperception commonly experienced as hearing voices). These individuals may also be experiencing fear, insecurity, difficulty concentrating, agitation, over-stimulation, and poor judgment. They may become preoccupied, withdrawn, or argumentative. Other crisis events may involve family altercations, intoxicated or chemically dependent individuals, suicide attempts, victims of accidents, physical or sexual assaults, or other taxing situations[.]<sup>33</sup>

“Many agencies have determined that because all their officers respond to mental health calls, they need to have the specialized training, knowledge, and skills to respond appropriately.”<sup>34</sup>

“The task of crisis intervention is that of communicating with people[.] The purpose of crisis intervention is to help individuals in crisis achieve -with assistance of the crisis intervener- equilibrium within themselves so they resume their normal activities[.]”<sup>35</sup> To enhance such communication, the officer might learn active listening skills and behaviors to avoid and also engage in role-playing.<sup>36</sup>

Some law enforcement agencies have addressed crisis intervention by engaging in Crisis Intervention Team (CIT) Training, which is a training curriculum that “emphasizes understanding of mental illness and incorporates the development of communication skills, practical experience and role-playing. Officers are introduced to mental health professionals, consumers and family members both in the classroom and through site visits.”<sup>37</sup>

Mental illness training may also occur during recruit academy training, in-service training, and roll-call training. The U.S. Department of Justice (DOJ) asserts that “[r]ecruit academy training is not sufficient by itself to prepare a police force to respond appropriately to individuals experiencing a mental health crisis. Recruit academy training must exist alongside a more comprehensive and robust program to be effective.”<sup>38</sup> Further, DOJ states that “[i]n-service and roll-call training provide law enforcement agencies with the opportunities to convey new policies and tactics to officers, to refresh knowledge, and to reinforce skills learned in previous recruit or specialized training courses.”<sup>39</sup>

The FDLE states that “[c]urrently, post-basic mental illness training is covered by a “Crisis Intervention for School Resource Officers (SROs) course. However, because this course is primarily taken by SROs, many officers do not receive this training.”<sup>40</sup> Additionally, according to the FDLE, accreditation standards for those law enforcement agencies that are accredited require annual mental illness training.

<sup>33</sup> Oliva, Morgan, and Romano (2010), *supra*, at p. 16.

<sup>34</sup> *Training/Police-Mental Health Collaboration (PMHC) Toolkit*, U.S. Department of Justice, available at <https://bja.ojp.gov/program/pmhc/training#:~:text=Mental%20Health%20First%20Aid%20for%20Public%20Safety%20is%20an%20eight,effective%20response%20options%20to%20deescalate> (last visited March 10, 2021).

<sup>35</sup> Oliva, Morgan, and Romano (2010), *supra*, at p. 19 (citation omitted).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* However, the DOJ also asserts that roll-call training, like recruit academy training, “is not sufficient by itself to prepare a police force to respond appropriately to individuals experiencing a mental health crisis.” *Id.*

<sup>40</sup> *2021 FDLE Legislative Bill Analysis* (SB 1192) (Feb. 25, 2021), Florida Department of Law Enforcement (on file with Senate Committee on Criminal Justice).



Law enforcement agencies accredited through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) must comply with an accreditation standard that requires agencies to have annual training for their law enforcement officers and other agency personnel who may come into contact with the public in dealing with individuals who suffer from mental illness (CALEA standard 41.2.7). The standard further directs that the training should be developed in collaboration with mental health professionals and should include access to the court system and applicable case law. The standard indicates that alternatives to arrest, such as citations, summonses, referrals, informal resolutions and warnings, should be considered to ensure the best treatment options are used and to keep those with mental health issues out of the criminal justice system. The training is to be reviewed and updated annually. Currently 43 state and local law enforcement agencies in Florida are accredited through CALEA.<sup>41</sup>

### **Procedural Justice Training**

In the context of law enforcement, “procedural justice” has been described as a “practical concept that promotes healthy and reciprocal relations with the community to enhance safety for both officers and the community.”<sup>42</sup> The CJSTC workgroup noted that in many police encounters that garnered national attention over the last several years, “the officer actions during the encounter had just as much of an effect on public perception as the outcome of the encounter.”<sup>43</sup>

The CJSTC workgroup explained that procedural justice amounts to four basic actions for police officers: treating people with respect; listening to what they have to say; making fair decisions; and explaining your actions.<sup>44</sup>

### **Implicit Bias Training**

“Implicit bias describes the automatic association people make between groups of people and stereotypes about those groups. Under certain conditions, those automatic associations can influence behavior—making people respond in biased ways even when they are not explicitly prejudiced.”<sup>45</sup> The 2017 CJSTC workgroup explained the “purpose of providing training on fair, unbiased policing (also known as fair and impartial policing) is to help individuals to be aware of their own biases and learn how to manage them effectively.” This is important because “being self-aware” of these biases aids in communication between law enforcement and the public “whether it is a town hall meeting, traffic stop, or some other interaction.”<sup>46</sup>

---

<sup>41</sup> *Id.*

<sup>42</sup> CJSTC report (May 11, 2017), *supra*, at p. 10.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 11.

<sup>45</sup> *Implicit Bias*, The National Initiative for Building Community Trust and Justice, available at <https://trustandjustice.org/resources/intervention/implicit-bias> (last visited March 10, 2021). “Discussions of implicit bias in policing tend to focus on implicit racial biases; however, implicit bias can be expressed in relation to non-racial factors, including gender, age, religion, or sexual orientation. As with all types of bias, implicit bias can distort one’s perception and subsequent treatment either in favor of or against a given person or group. In policing, this has resulted in widespread practices that focus undeserved suspicion on some groups and presume other groups innocent.” *Id.*

<sup>46</sup> CJSTC report (May 11, 2017), *supra*, at p. 10. “Studies find that bias, both implicit and explicit, exists in all people. This does not necessarily lead citizens and officers to treat others unfairly, but it makes that more likely.” *Id.* at 7.



According to the FDLE, training on “diversity” is interwoven into the following curricula at the basic recruit training level:

- Introduction to Law Enforcement (10-hour course)
- Interactions in a Diverse Community (40-hour course)
- Calls for Service (36-hour course)
- Traffic Stops (30-hour course)
  - Professional communication, conflict resolution, avoiding bias, and working with diverse groups are woven throughout the basic recruit program. In addition to the textbook content describing these topics, recruits get hands-on practice through communication exercises and role-play scenarios.

### **Peer Support Programs**

Peer support programs are a means to help law enforcement officers and other first responders deal with work-related and family stress. Some law enforcement agencies offer peer support programs during crisis events or through full-time staff. According to the National Sheriffs Association,

[h]aving a Peer Support program in place not only helps to decrease day-to-day stress, but it can also countercheck the emotional strain of critical incidents and prevent the accumulation of emotions that can lead to alcohol abuse, depression, domestic violence, and suicide.

Benefits of developing a Peer Support program include the ability to provide peers with immediate assistance, provide additional support, allow for ventilation and sharing to take place, and works in tandem with the services provided by chaplains and mental health professionals. A successful Peer Support program reduces long-term critical incident stress, turn-over and health insurance costs, worker’s compensation claims, fitness-for-duty evaluations and supports supervisor referrals.<sup>47</sup>

In 2020, legislation was enacted into Florida law to provide confidentiality for peer support communications between a first responder and a first responder peer.<sup>48</sup> A “first responder” includes a law enforcement officer and a “first responder peer” includes a person who:

- Is not a health care practitioner;
- Has experience working as or with a first responder regarding any physical or emotional conditions or issues associated with the first responder’s employment; and
- Has been designated by the first responder’s employing agency to provide peer support (as provided in the bill) and has received training for this purpose.<sup>49</sup>

---

<sup>47</sup> *The Benefits of Developing a Peer Support Program*, National Sheriffs Association, Justice Clearinghouse, available at <https://www.justiceclearinghouse.com/webinar/the-benefits-of-developing-a-peer-support-program/> (last visited March 10, 2021).

<sup>48</sup> Chapter 2020-104 L.O.F (effective July 1, 2020).

<sup>49</sup> *Id.* The bill provided four exceptions to such confidentiality: (1) the first responder peer is a defendant in a civil, criminal, administrative, or disciplinary proceeding arising from a complaint filed by the first responder who was a party to the peer support communication, in which case such information may be divulged but is limited to the scope of the proceeding; (2) the first responder who was a party to the peer support communication agrees, in writing, to allow the first responder peer to

## National Decertification Index

“In July 1999, the International Association of Directors of Law Enforcement Standards and Training (IADLEST) established a database, with funding from the DOJ’s Bureau of Justice Administration (BJA), to track decertified officers across the United States.”<sup>50</sup> The National Decertification Index (NDI) is intended “to serve as a national registry of certificate or license revocation actions relating to officer misconduct. The records contained in the NDI are provided by participating state government agencies and should be verified with the contributing authority. Inclusion in the database does not necessarily preclude any individual from appointment as an officer.”<sup>51</sup> “The NDI is a pointer system only. There are no records contained in the NDI. Records are housed in participating state government agency databases.....”<sup>52</sup>

The NDI “contains no information about what the officer did to be decertified; it merely refers the person seeking information about a particular officer to the state POST<sup>53</sup> that decertified him or her. POST agencies are permitted to query the NDI, as are hiring departments as long as the POST has granted access for the agency’s pre-hire screening process.” As of March 10, 2020, the NDI contained 29,882 actions reported by 45 certifying agencies.<sup>54</sup>

The FDLE states that “[o]fficer disciplinary actions resulting in revocation or relinquishment of an officer’s certification are currently reported to NDI.”<sup>55</sup>

## Accreditation

Section 943.125, F.S., addresses voluntary accreditation of state and local law enforcement agencies, correctional facilities, public agency offices of inspectors general, and certain pretrial diversion programs. Accreditation standards relating to law enforcement and inspectors general used by the accreditation programs established in s. 943.125, F.S., are determined by the Commission for Florida Law Enforcement Accreditation, Inc. (CFA). Accreditation standards

---

testify about or divulge information related to the peer support communications; (3) based on the peer support communications, the first responder peer suspects that the first responder who was a party to the peer support communications has committed a criminal act or intends to commit a criminal act; and (4) there are articulable facts or circumstances that would lead a reasonable, prudent person to fear for the safety of the first responder who was a party to the peer support communication, another person, or society, and the first responder peer communicates the information only to a potential victim and law enforcement or other appropriate authorities. *Id.*

<sup>50</sup> Roger L. Goldman, *NDI: Tracking Interstate Movement of Decertified Police Officers*, The Police Chief, International Association of Chiefs of Police, available at <https://www.policechiefmagazine.org/ndi-tracking-decertified-police-officers/> (last visited March 10, 2021).

<sup>51</sup> *About NDI*, International Association of Directors of Law Enforcement Standards and Training, available at <https://www.iadlest.org/our-services/ndi/about-ndi> (last visited March 10, 2021).

<sup>52</sup> *Do you really know who you are hiring? (Become better informed through the National Decertification Index (NDI))*, International Association of Directors of Law Enforcement Standards and Training, available at <https://www.iadlest.org/Portals/0/NDI%20brochure%20July%202020.pdf> (last visited March 10, 2021).

<sup>53</sup> “POST” is an acronym for Peace Officer Standards and Training Commission.

<sup>54</sup> *About NDI*, *supra*.

<sup>55</sup> Section 943.125(6), F.S.

related to corrections functions and pretrial diversion programs are determined by the Florida Corrections Accreditation Commission, Inc. (FCAC).<sup>56</sup>

Section 943.125, F.S., requires that the law enforcement accreditation program address, at a minimum, the following aspects of law enforcement:

- Vehicle pursuits;
- Seizure and forfeiture of contraband articles;
- Recording and processing citizens' complaints;
- Use of force;
- Traffic stops;
- Handling natural and manmade disasters.
- Special operations;
- Prisoner transfer;
- Collection and preservation of evidence;
- Recruitment and selection;
- Officer training;
- Performance evaluations;
- Law enforcement disciplinary procedures and rights; and
- Use of criminal investigative funds.<sup>57</sup>

### **III. Effect of Proposed Changes:**

#### **Providing a Declaration of an Important State Interest**

The bill provides the following declaration of an important state interest:

The Legislature finds that effective policing requires that the use of chokeholds and neck restraints be limited; that law enforcement basic recruit training and retraining include deescalation training; that minimum standards of instruction be developed relating to deescalation techniques, procedural justice, implicit bias, and the duty of an officer to intervene if another officer uses excessive or unnecessary force; that the state law enforcement accreditation program address these matters as well as mental health and wellness resources and support available for law enforcement officers; and that written policies incorporate an affirmative duty to use deescalation techniques whenever possible. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of both law enforcement officers and the public by ensuring law enforcement officers receive sufficient and similar training to prevent unnecessary or excessive use of force and to develop skills to enhance understanding of and communication with the communities they serve.

---

<sup>56</sup> Some agencies are accredited through national accreditation organizations, such as the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) or the Commission on Accreditation for Corrections (ACA), rather than through the state accrediting body.

<sup>57</sup> Section 943.125(4), F.S.

### **Limiting Certain Restraint Techniques**

The bill amends s. 943.12, F.S., relating to the powers, duties, and functions of the CJSTC, to require the CJSTC to adopt rules prohibiting any law enforcement officer, correctional officer, or correctional probation officer from using any technique that requires the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea. The use of such a technique by any such officer is prohibited unless deadly force is authorized under the law. The CJSTC must adopt rules requiring employing agencies to report to the CJSTC any use of such technique by such officer employed by that agency. The CJSTC must also cause to be investigated any law enforcement officer, correctional officer, or correctional probation officer who uses such technique in violation of this statute, and set disciplinary guidelines and penalties prescribed in rules applicable to such violation.

### **Providing Data to the National Decertification Index**

The bill further amends s. 943.12, F.S., to require the CJSTC to provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers.

### **Requiring Minimum Standards for Deescalation Training and Other Training Subjects**

The bill creates s. 943.121, F.S., to require the CJSTC to establish and maintain standards for instruction of officers in the subjects of deescalation techniques,<sup>58</sup> procedural justice training,<sup>59</sup> implicit bias training,<sup>60</sup> and the duty to intervene<sup>61</sup> if another officer uses excessive or unnecessary force in order to build upon and improve police community relations.

The bill provides that the following minimum standards for deescalation training must include all of the following:

- Training on verbal and physical tactics that would help avoid a physical response to resistance with an emphasis on communication, negotiation, deescalation techniques,

---

<sup>58</sup> The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “deescalation technique” as a method or methods for assessing and managing a situation in order to resolve it with the least response to resistance which is safe and practicable by a law enforcement officer.

<sup>59</sup> The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “procedural justice training” as a system of law enforcement that prioritizes obtaining citizen compliance with law enforcement direction through fair and respectful two-way communication and, where possible and safe, provides explanation of the rationale behind directions given by law enforcement officers to build trust. This training allows for both community and police to be treated with respect and dignity, thereby cultivating stronger police-community relations.

<sup>60</sup> The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “implicit bias training” as a program designed to go beyond producing fair and impartial enforcement of the law by bringing awareness to or increasing awareness of, and improving response strategies to, unconscious bias towards diverse communities. Such training should allow law enforcement to serve the community with a deeper understanding of the diversities within the community, thereby mitigating community tension and improving police-community relations.

<sup>61</sup> The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “intervene” as stopping the use of excessive or unnecessary force.

creating and maintaining a reaction gap,<sup>62</sup> and obtaining the time needed to resolve the incident safely for each individual involved;

- Training officers simultaneously and in teams on deescalation and appropriate responses to resistance to improve group dynamics and diminish excessive responses to resistance while managing critical incidents;
- Training that intentional chokeholds must never be used, except in deadly force situations;
- Training on the principles of using distance, cover, and time when approaching and managing critical incidents, and the elimination of other techniques in favor of using distance and cover to create and sustain a reaction gap;
- Training on the use of the lowest response to resistance which is a possible and safe response to an identified threat;
- Training on the reevaluation of an identified threat as the management of the critical incident progresses;
- Training on procedural justice training;
- Training on crisis intervention strategies to appropriately identify and respond to individuals suffering from physical or mental disabilities, mental health issues, or substance abuse issues with an emphasis on deescalation techniques and promoting effective communication with such individuals;
- Training on techniques that provide all officers with awareness and recognition of an individual's physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies;
- Training on other evidence-based approaches found to be appropriate by the CJSTC which enhance deescalation techniques and skills; and
- Training on implicit bias.

The bill also requires the CJSTC to:

- Not later than November 30, 2022, provide written guidance to law enforcement agencies in this state which employ law enforcement officers with regard to compliance with minimum standards relating to deescalation training;
- Create and publish on its website a model written policy on deescalation training, which a law enforcement agency may adopt to fulfill written policy requirements under the statute; and
- Collect data regarding the implementation of training programs under the statute and provide by July 1 of each year an annual report to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader describing that data.

The bill also requires each law enforcement agency in this state to adopt, not later than January 1, 2023, a written policy stating that each of the law enforcement officers in its employ has an affirmative duty to use deescalation techniques in his or her interactions with citizens wherever possible.

---

<sup>62</sup> The bill amends s. 943.10, F.S., relating to definitions in ch. 943, F.S., to define “reaction gap” as the minimum amount of distance necessary to ensure that a law enforcement officer will have time to be able to react appropriately to a potential threat.

**Requiring that Deescalation Techniques and other Specified Aspects of Law Enforcement be Addressed in Law Enforcement Agency Accreditation**

The bill amends s. 943.125, F.S., relating, in part, to accreditation of state and local law enforcement agencies, to expand the list of aspects of law enforcement that a law enforcement accreditation program must, at a minimum, address. The bill adds the following aspects of law enforcement:

- Response to resistance (replacing the current to “use of force”);<sup>63</sup>
- Deescalation techniques;
- Implicit bias training;
- Procedural justice training;
- Mental health and wellness resources and support available for law enforcement officers, including any peer-support teams and sworn or unsworn chaplaincy programs; and
- The duty to intervene if another officer uses excessive or unnecessary force.

**Requiring Deescalation Training in Basic Recruit Training and Continued Employment Training.**

The bill amends s. 943.1715, F.S., relating to law enforcement training in diverse populations, to mandate that the CJSTC require that every basic skills course include in the curriculum at least 40 hours of deescalation training.

According to the FDLE, “the current BRTP has a lot of de-escalation training” but “it’s impossible to pinpoint the current number of hours due to the topic being threaded throughout the training. In addition, this topic is covered within role-play and communication exercises. Therefore, it is very difficult to determine the number of hours contributed solely to de-escalation.”<sup>64</sup>

The bill also amends s. 943.1716, F.S., relating to continued employment training in diverse populations, to mandate that the CJSTC require by rule that each officer receive at least 16 hours of deescalation training, in addition to the 40 hours of required instruction for continued employment or appointment as an officer.

**Effective Date**

The bill takes effect July 1, 2022.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state

---

<sup>63</sup> The CJSTC uses the term “use of force” throughout all training documents. *2021 FDLE Legislative Bill Analysis* (SB 1970), *supra*.

<sup>64</sup> *Id.*

interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature....”

The bill contains numerous training requirements and other requirements that may impact local law enforcement agencies. These requirements may cause county and municipal governments to spend funds.

Article VII, section 18(d) of the State Constitution, provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. If the bill does qualify as a mandate, and no exemption applies, in order to be binding on the counties, the bill must include a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

The bill includes a declaration of an important state interest supporting the requirements of the bill (see “Effect of Proposed Changes” section of this analysis).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill contains numerous training requirements and other requirements that may impact local law enforcement agencies. These requirements may cause county and municipal governments to spend funds. The impact of the bill on local governments is indeterminate.

The FDLE states that development of the training curricula will cost approximately \$12,648.

#### **Analysis**

- Identify SMEs: \$744 for 40 hours.
- Research existing material: \$744 for 40 hours
- SME Workshop—Instructional Analysis : \$2976 for 160 hours

#### **Design/Development**

- Develop course content: \$5,952 for 320 hours

#### **Review/Revisions**

- \$1,488 for 80 hours

#### **Implementation**

- Course edit: \$744 for 40 hours

**Total cost: \$12,648<sup>65</sup>**

The FDLE also states that the bill will require modifications to ATMS (analysis, design, programming and testing) totaling approximately \$37,000. The FDLE estimates these modifications will take three months to complete.<sup>66</sup>

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

### **Michigan Senate Bill on Law Enforcement Standards and Training**

On June 4, 2020, the Michigan Senate passed a bill<sup>67</sup> on law enforcement standards.<sup>68</sup> The bill “would amend the Michigan Commission on Law Enforcement Standards Act to require individuals who are licensed or seeking licensure as law enforcement officers to complete training that includes de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support for law enforcement officers.”<sup>69</sup> The bill also “would establish continuing education requirements for all licensed law enforcement officers.”

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Substitute for SB 0945 (S-1) (2020), Michigan Legislature, available at <http://www.legislature.mi.gov/documents/2019-2020/billengrossed/Senate/pdf/2020-SEBS-0945.pdf> (last visited March 10, 2021).

<sup>68</sup> The legislative history of the bill is available at [http://www.legislature.mi.gov/\(S\(ptinhtqijmne1wciqd5iy\)\)/milegPrint.aspx?page=BillStatus&objectname=2020-SB-0945](http://www.legislature.mi.gov/(S(ptinhtqijmne1wciqd5iy))/milegPrint.aspx?page=BillStatus&objectname=2020-SB-0945) (last visited March 10, 2021).

<sup>69</sup> *Legislative Analysis* (Senate Bill 945 (S-1) as passed by the Senate and proposed substitute H-1) (June 24, 2020), House Fiscal Agency, Michigan Legislature, available at <http://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-0945-7595C58A.pdf> (last visited March 10, 2021).



This bill is similar to the previously-described Michigan Senate bill.

The bill also amends s. 943.1716, F.S., to mandate that the CJSTC require by rule that each officer receive at least 16 hours of deescalation training, in addition to the 40 hours of required instruction for continued employment or appointment as an officer.

### **FDLE Comments on Impact of Continued Employment Deescalation Training Requirement**

The FDLE states that the requirement relating to continued employment training in deescalation “will raise the number of continuing training or education required of law enforcement officers from the rate of 40 hours every four years to 56 hours every four years. Staff will also have to amend ATMS and follow up with agencies to document completions”<sup>70</sup> Further “[A] specialized post-basic 16-hour de-escalation course will be presented for CJSTC approval in May 2021. This course will meet the de-escalation training specified in the bill, with the exception of the mandatory requirement.”<sup>71</sup>

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 943.10, 943.12, 943.125, 943.1715, and 943.1716.

This bill creates section 943.121 of the Florida Statutes.

## **IX. Additional Information:**

### **A. Committee Substitute – Statement of Substantial Changes:** (Summarizing differences between the Committee Substitute and the prior version of the bill.)

#### **CS by Criminal Justice on March 16, 2021:**

The committee substitute:

- Includes a declaration of an important state interest;
- Requires the CJSTC to provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers;
- Requires the CJSTC (rather than the Office of Attorney General) to:
  - Provide written guidance to law enforcement agencies on compliance with minimum standards relating to deescalation training; and
  - Collect data regarding the implementation of training programs and annually report such data to the Legislature (as specified in bill);
- Moves requirements relating to written guidance and policy on deescalation training and data collection on training programs from s. 943.125, F.S., to s. 943.121, F.S. (created by the bill); and

---

<sup>70</sup> *Id.*

<sup>71</sup> 2021 FDLE Legislative Bill Analysis (SB 1970), *supra*.

- Changes the effective date of the bill from July 1, 2021 to July 1, 2022, and makes conforming changes to other dates relevant to requirements in the bill so that those other dates occur after the bill's effective date.

**B. Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---



257714

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
	.	
	.	
	.	

---

The Committee on Criminal Justice (Pizzo) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. The Legislature finds that effective policing requires that the use of chokeholds and neck restraints be limited; that law enforcement basic recruit training and retraining include deescalation training; that minimum standards of instruction be developed relating to deescalation techniques, procedural justice, implicit bias, and the duty of an officer to



257714

intervene if another officer uses excessive or unnecessary force; that the state law enforcement accreditation program address these matters as well as mental health and wellness resources and support available for law enforcement officers; and that written policies incorporate an affirmative duty to use deescalation techniques whenever possible. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of both law enforcement officers and the public by ensuring law enforcement officers receive sufficient and similar training to prevent unnecessary or excessive use of force and to develop skills to enhance understanding of and communication with the communities they serve.

Section 2. Subsections (23) through (27) are added to section 943.10, Florida Statutes, to read:

943.10 Definitions; ss. 943.085-943.255.—The following words and phrases as used in ss. 943.085-943.255 are defined as follows:

(23) "Deescalation technique" means a method or methods for assessing and managing a situation in order to resolve it with the least response to resistance which is safe and practicable by a law enforcement officer.

(24) "Implicit bias training" means a program designed to go beyond producing fair and impartial enforcement of the law by bringing awareness to or increasing awareness of, and improving response strategies to, unconscious bias towards diverse communities. Such training should allow law enforcement to serve the community with a deeper understanding of the diversities within the community, thereby mitigating community tension and



257714

improving police-community relations.

(25) "Intervene" means to stop the use of excessive or unnecessary force.

(26) "Procedural justice training" means a system of law enforcement that prioritizes obtaining citizen compliance with law enforcement direction through fair and respectful two-way communication and, where possible and safe, provides explanation of the rationale behind directions given by law enforcement officers to build trust. This training allows for both community and police to be treated with respect and dignity, thereby cultivating stronger police-community relations.

(27) "Reaction gap" means the minimum amount of distance necessary to ensure that a law enforcement officer will have time to be able to react appropriately to a potential threat.

Section 3. Present subsection (17) of section 943.12, Florida Statutes, is redesignated as subsection (18), and a new subsection (17) and subsection (19) are added to that section, to read:

943.12 Powers, duties, and functions of the commission.—The commission shall:

(17) Adopt rules prohibiting any law enforcement officer, correctional officer, or correctional probation officer from using any technique that requires the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea. The use of such a technique by a law enforcement officer, correctional officer, or correctional probation officer is prohibited unless deadly force is authorized under the law. The commission shall adopt rules requiring employing agencies to report to the commission any use



257714

of such technique by a law enforcement officer, correctional officer, or correctional probation officer employed by that agency. The commission shall cause to be investigated any law enforcement officer, correctional officer, or correctional probation officer who uses such a technique in violation of this subsection, and shall set disciplinary guidelines and penalties prescribed in rules applicable to such violation.

(19) Provide data to the National Decertification Index on final commission orders regarding revocation or relinquishment of certification of law enforcement officers, correctional officers, and correctional probation officers.

Section 4. Section 943.121, Florida Statutes, is created to read:

943.121 Commission standards for instruction of officers in certain subjects; guidance; written policies.—

(1) The commission shall establish and maintain standards for instruction of officers in the subjects of deescalation techniques, procedural justice training, implicit bias training, and the duty to intervene if another officer uses excessive or unnecessary force in order to build upon and improve police-community relations.

(2) The minimum standards for deescalation training must include all of the following:

(a) Training on verbal and physical tactics that would help avoid a physical response to resistance with an emphasis on communication, negotiation, deescalation techniques, creating and maintaining a reaction gap, and obtaining the time needed to resolve the incident safely for each individual involved.

(b) Training officers simultaneously and in teams on



257714

deescalation and appropriate responses to resistance to improve group dynamics and diminish excessive responses to resistance while managing critical incidents.

(c) Training that intentional chokeholds must never be used, except in deadly force situations.

(d) Training on the principles of using distance, cover, and time when approaching and managing critical incidents, and the elimination of other techniques in favor of using distance and cover to create and sustain a reaction gap.

(e) Training on the use of the lowest response to resistance which is a possible and safe response to an identified threat.

(f) Training on the reevaluation of an identified threat as the management of the critical incident progresses.

(g) Training on procedural justice training.

(h) Training on crisis intervention strategies to appropriately identify and respond to individuals suffering from physical or mental disabilities, mental health issues, or substance abuse issues with an emphasis on deescalation techniques and promoting effective communication with such individuals.

(i) Training on techniques that provide all officers with awareness and recognition of an individual's physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies.

(j) Training on other evidence-based approaches found to be appropriate by the commission which enhance deescalation techniques and skills.

(k) Training on implicit bias.



257714

(3) Not later than November 30, 2022, the commission shall provide written guidance to law enforcement agencies in this state which employ law enforcement officers with regard to compliance with minimum standards under subsection (2).

(4) The commission shall create and publish on its website a model written policy in accordance with subsection (2).

(5) Not later than January 1, 2023, each law enforcement agency in this state shall adopt a written policy stating that each of the law enforcement officers in its employ has an affirmative duty to use deescalation techniques in his or her interactions with citizens wherever possible. A law enforcement agency may fulfill its duty under this subsection by adopting the commission's model written policy.

(6) The commission shall collect data regarding the implementation of training programs under this section and shall provide by July 1 of each year an annual report to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader describing that data.

Section 5. Section 943.125, Florida Statutes, is amended to read:

943.125 Accreditation of state and local law enforcement agencies, correctional facilities, public agency offices of inspectors general, and certain pretrial diversion programs; intent.—

(1) It is the intent of the Legislature that law enforcement agencies, correctional facilities, public agency offices of inspectors general, and those agencies offering pretrial diversion programs within offices of the state





257714

attorneys, county government, or sheriff's offices in the state be upgraded and strengthened through the adoption of meaningful standards of operation for those agencies and their functions.

(2) It is the further intent of the Legislature that these agencies voluntarily adopt standards designed to promote enhanced professionalism:

(a) For law enforcement, to maximize the capability of law enforcement agencies to enforce the law and prevent and control criminal activities.

(b) For correctional facilities, to maintain best practices for the care, custody, and control of inmates.

(c) Within public agency offices of inspector general, to promote more effective scrutiny of public agency operations and greater accountability of those serving in those agencies.

(d) In the operation and management of pretrial diversion programs offered by and through the state attorney's offices, county government, or sheriff's offices.

(3) The Legislature also intends to encourage the continuation of a voluntary state accreditation program to facilitate the enhanced professionalism identified in subsection (2). Other than the staff support by the department as authorized in subsection (5), the accreditation program must be independent of any law enforcement agency, the Department of Corrections, the Florida Sheriffs Association, or the Florida Police Chiefs Association.

(4) The law enforcement accreditation program must address, at a minimum, all of the following aspects of law enforcement:

(a) Vehicle pursuits.

(b) Seizure and forfeiture of contraband articles.



257714

(c) Recording and processing citizens' complaints.  
(d) Response to resistance ~~Use of force~~.  
(e) Traffic stops.  
(f) Handling natural and manmade disasters.  
(g) Special operations.  
(h) Prisoner transfer.  
(i) Collection and preservation of evidence.  
(j) Recruitment and selection.  
(k) Officer training.  
(l) Performance evaluations.  
(m) Law enforcement disciplinary procedures and rights.  
(n) Use of criminal investigative funds.  
(o) Deescalation techniques.  
(p) Implicit bias training.  
(q) Procedural justice training.  
(r) Mental health and wellness resources and support  
available for law enforcement officers, including any peer-  
support teams and sworn or unsworn chaplaincy programs.  
(s) The duty to intervene if another officer uses excessive  
or unnecessary force.  
(5) Subject to available funding, the department shall  
employ and assign adequate support staff to the Commission for  
Florida Law Enforcement Accreditation, Inc., and the Florida  
Corrections Accreditation Commission, Inc., in support of the  
accreditation programs established in this section.  
(6) Accreditation standards related to law enforcement and  
inspectors general used by the accreditation programs  
established in this section shall be determined by the  
Commission for Florida Law Enforcement Accreditation, Inc.



257714

Accreditation standards related to corrections functions and pretrial diversion programs shall be determined by the Florida Corrections Accreditation Commission, Inc.

Section 6. Section 943.1715, Florida Statutes, is amended to read:

943.1715 Basic skills training relating to diverse populations and deescalation training.—The commission shall establish and maintain standards for instruction of officers in the subject of interpersonal skills relating to diverse populations, with an emphasis on the awareness of cultural differences. Every basic skills course required in order for officers to obtain initial certification must include training in interpersonal skills with diverse populations. The commission shall also require that every basic skills course include in the curriculum at least 40 hours of deescalation training.

Section 7. Section 943.1716, Florida Statutes, is amended to read:

943.1716 Continued employment training relating to diverse populations and deescalation training.—The commission shall by rule require that each officer receive, as part of the 40 hours of required instruction for continued employment or appointment as an officer, instruction in the subject of interpersonal skills relating to diverse populations, with an emphasis on the awareness of cultural differences. The commission shall also require by rule that every officer receive at least 16 hours of deescalation training, in addition to the 40 hours of required instruction for continued employment or appointment as an officer.

Section 8. This act shall take effect July 1, 2022.



257714

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to law enforcement reform; providing a  
declaration of important state interest; amending s.  
943.10, F.S.; defining terms; amending s. 943.12,  
F.S.; requiring the Criminal Justice Standards and  
Training Commission to adopt rules prohibiting law  
enforcement officers, correctional officers, or  
correctional probation officers from using specified  
techniques; providing an exception; requiring the  
commission to adopt rules requiring employing agencies  
to report information related to the use of such  
techniques; requiring that the commission review  
certain officers who use the prohibited techniques;  
requiring the commission to provide specified data  
regarding final commission orders to the National  
Decertification Index; creating s. 943.121, F.S.;  
requiring the commission to establish and maintain  
standards for the instruction of officers in specified  
subjects in order to build upon and improve police-  
community relations; providing minimum required  
standards for deescalation training; requiring that by  
a specified date the commission provide certain  
guidance to law enforcement agencies; requiring the



257714

commission to create and publish on its website a  
model written policy; requiring that by a specified  
date each law enforcement agency adopt a certain  
policy; requiring the commission to collect certain  
data and submit an annual report; amending s. 943.125,  
F.S.; revising the minimum aspects of law enforcement  
that the law enforcement accreditation program must  
address; amending s. 943.1715, F.S.; requiring every  
basic skills course required for officers to obtain  
initial certification to include a minimum number of  
hours of deescalation training; amending s. 943.1716,  
F.S.; requiring the commission to adopt rules  
requiring that every officer receive a minimum number  
of hours of deescalation training; providing an  
effective date.

By Senator Pizzo

38-01746A-21

20211970\_\_

1 A bill to be entitled  
 2 An act relating to law enforcement reform; amending s.  
 3 943.10, F.S.; defining terms; amending s. 943.12,  
 4 F.S.; requiring the Criminal Justice Standards and  
 5 Training Commission to adopt rules prohibiting law  
 6 enforcement officers, correctional officers, or  
 7 correctional probation officers from using specified  
 8 techniques; providing an exception; requiring the  
 9 commission to adopt rules requiring employing agencies  
 10 to report information related to the use of such  
 11 techniques; requiring that the commission review  
 12 certain officers who use the prohibited techniques;  
 13 requiring the commission to provide specified data  
 14 regarding final commission orders to the National  
 15 Decertification Index; creating s. 943.121, F.S.;  
 16 requiring the commission to establish and maintain  
 17 standards for the instruction of officers in specified  
 18 subjects in order to build upon and improve police-  
 19 community relations; providing minimum required  
 20 standards for deescalation training; amending s.  
 21 943.125, F.S.; revising the minimum aspects of law  
 22 enforcement that the law enforcement accreditation  
 23 program must address; providing minimum required  
 24 standards for deescalation training; requiring that by  
 25 a specified date the Office of the Attorney General  
 26 provide certain guidance to law enforcement agencies;  
 27 requiring that by a specified date each law  
 28 enforcement agency adopt a certain policy; requiring  
 29 the commission to create and publish on its website a

Page 1 of 11

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-01746A-21

20211970\_\_

30 model written policy; requiring the Office of the  
 31 Attorney General to collect certain data and submit an  
 32 annual report; amending s. 943.1715, F.S.; requiring  
 33 every basic skills course required for officers to  
 34 obtain initial certification to include a minimum  
 35 number of hours of deescalation training; amending s.  
 36 943.1716, F.S.; requiring the commission to adopt  
 37 rules requiring that every officer receive a minimum  
 38 number of hours of deescalation training; providing an  
 39 effective date.

40  
 41 Be It Enacted by the Legislature of the State of Florida:

42  
 43 Section 1. Subsections (23) through (27) are added to  
 44 section 943.10, Florida Statutes, to read:  
 45 943.10 Definitions; ss. 943.085-943.255.—The following  
 46 words and phrases as used in ss. 943.085-943.255 are defined as  
 47 follows:

48 (23) "Deescalation technique" means a method or methods for  
 49 assessing and managing a situation in order to resolve it with  
 50 the least response to resistance which is safe and practicable  
 51 by a law enforcement officer.

52 (24) "Implicit bias training" means a program designed to  
 53 go beyond producing fair and impartial enforcement of the law by  
 54 bringing awareness to or increasing awareness of, and improving  
 55 response strategies to, unconscious bias towards diverse  
 56 communities. Such training should allow law enforcement to serve  
 57 the community with a deeper understanding of the diversities  
 58 within the community, thereby mitigating community tension and

Page 2 of 11

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-01746A-21

20211970\_\_

improving police-community relations.

(25) "Intervene" means to stop the use of excessive or unnecessary force.

(26) "Procedural justice training" means a system of law enforcement that prioritizes obtaining citizen compliance with law enforcement direction through fair and respectful two-way communication and, where possible and safe, provides explanation of the rationale behind directions given by law enforcement officers to build trust. This training allows for both community and police to be treated with respect and dignity, thereby cultivating stronger police-community relations.

(27) "Reaction gap" means the minimum amount of distance necessary to ensure that a law enforcement officer will have time to be able to react appropriately to a potential threat.

Section 2. Present subsection (17) of section 943.12, Florida Statutes, is redesignated as subsection (18), and a new subsection (17) and subsection (19) are added to that section, to read:

943.12 Powers, duties, and functions of the commission.—The commission shall:

(17) Adopt rules prohibiting any law enforcement officer, correctional officer, or correctional probation officer from using any technique that requires the application of pressure to the neck, throat, esophagus, trachea, or carotid arteries alongside the trachea. The use of such a technique by a law enforcement officer, correctional officer, or correctional probation officer is prohibited unless deadly force is authorized under the law. The commission shall adopt rules requiring employing agencies to report to the commission any use

38-01746A-21

20211970\_\_

of such technique by a law enforcement officer, correctional officer, or correctional probation officer employed by that agency. The commission shall review any law enforcement officer, correctional officer, or correctional probation officer who uses such a technique when deadly force is not authorized under the law.

(19) Provide data to the National Decertification Index on final commission orders regarding decertifications, criminal convictions for on-duty conduct, and disciplinary measures against law enforcement officers, correctional officers, or correctional probation officers.

Section 3. Section 943.121, Florida Statutes, is created to read:

943.121 Commission standards for instruction of officers in certain subjects.—

(1) The commission shall establish and maintain standards for instruction of officers in the subjects of deescalation techniques, procedural justice training, implicit bias training, and the duty to intervene if another officer uses excessive or unnecessary force in order to build upon and improve police-community relations.

(2) The minimum standards for deescalation training must include all of the following:

(a) Training on verbal and physical tactics that would help avoid a physical response to resistance with an emphasis on communication, negotiation, deescalation techniques, creating and maintaining a reaction gap, and obtaining the time needed to resolve the incident safely for each individual involved.

(b) Training officers simultaneously and in teams on

38-01746A-21

20211970

deescalation and appropriate responses to resistance to improve group dynamics and diminish excessive responses to resistance while managing critical incidents.

(c) Training that intentional chokeholds must never be used, except in deadly force situations.

(d) Training on the principles of using distance, cover, and time when approaching and managing critical incidents, and the elimination of other techniques in favor of using distance and cover to create and sustain a reaction gap.

(e) Training on the use of the lowest response to resistance which is a possible and safe response to an identified threat.

(f) Training on the reevaluation of an identified threat as the management of the critical incident progresses.

(g) Training on procedural justice training.

(h) Training on crisis intervention strategies to appropriately identify and respond to individuals suffering from physical or mental disabilities, mental health issues, or substance abuse issues with an emphasis on deescalation techniques and promoting effective communication with such individuals.

(i) Training on techniques that provide all officers with awareness and recognition of an individual's physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies.

(j) Training on other evidence-based approaches found to be appropriate by the commission which enhance deescalation techniques and skills.

(k) Training on implicit bias.

38-01746A-21

20211970

Section 4. Section 943.125, Florida Statutes, is amended to read:

943.125 Accreditation of state and local law enforcement agencies, correctional facilities, public agency offices of inspectors general, and certain pretrial diversion programs; intent.—

(1) It is the intent of the Legislature that law enforcement agencies, correctional facilities, public agency offices of inspectors general, and those agencies offering pretrial diversion programs within offices of the state attorneys, county government, or sheriff's offices in the state be upgraded and strengthened through the adoption of meaningful standards of operation for those agencies and their functions.

(2) It is the further intent of the Legislature that these agencies voluntarily adopt standards designed to promote enhanced professionalism:

(a) For law enforcement, to maximize the capability of law enforcement agencies to enforce the law and prevent and control criminal activities.

(b) For correctional facilities, to maintain best practices for the care, custody, and control of inmates.

(c) Within public agency offices of inspector general, to promote more effective scrutiny of public agency operations and greater accountability of those serving in those agencies.

(d) In the operation and management of pretrial diversion programs offered by and through the state attorney's offices, county government, or sheriff's offices.

(3) The Legislature also intends to encourage the continuation of a voluntary state accreditation program to



38-01746A-21

20211970\_\_

175 facilitate the enhanced professionalism identified in subsection  
 176 (2). Other than the staff support by the department as  
 177 authorized in subsection (10) ~~(5)~~, the accreditation program  
 178 must be independent of any law enforcement agency, the  
 179 Department of Corrections, the Florida Sheriffs Association, or  
 180 the Florida Police Chiefs Association.

181 (4) The law enforcement accreditation program must address,  
 182 at a minimum, all of the following aspects of law enforcement:

- 183 (a) Vehicle pursuits.
- 184 (b) Seizure and forfeiture of contraband articles.
- 185 (c) Recording and processing citizens' complaints.
- 186 (d) Response to resistance ~~Use of force~~.
- 187 (e) Traffic stops.
- 188 (f) Handling natural and manmade disasters.
- 189 (g) Special operations.
- 190 (h) Prisoner transfer.
- 191 (i) Collection and preservation of evidence.
- 192 (j) Recruitment and selection.
- 193 (k) Officer training.
- 194 (l) Performance evaluations.
- 195 (m) Law enforcement disciplinary procedures and rights.
- 196 (n) Use of criminal investigative funds.
- 197 (o) Deescalation techniques.
- 198 (p) Implicit bias training.
- 199 (q) Procedural justice training.
- 200 (r) Mental health and wellness resources and support  
 201 available for law enforcement officers, including any peer-  
 202 support teams and sworn or unsworn chaplaincy programs.  
 203 (s) The duty to intervene if another officer uses excessive

38-01746A-21

20211970\_\_

204 or unnecessary force.

205 (5) The minimum standards for deescalation training must  
 206 include all of the following:

207 (a) Training on verbal and physical tactics that would help  
 208 avoid a physical response to resistance with an emphasis on  
 209 communication, negotiation, deescalation techniques, creating  
 210 and maintaining a reaction gap, and obtaining the time needed to  
 211 resolve the incident safely for each individual involved.

212 (b) Training officers simultaneously and in teams on  
 213 deescalation and appropriate responses to resistance to improve  
 214 group dynamics and diminish excessive responses to resistance  
 215 while managing critical incidents.

216 (c) Training that intentional chokeholds must never be  
 217 used, except in deadly force situations.

218 (d) Training on the principles of using distance, cover,  
 219 and time when approaching and managing critical incidents, and  
 220 the elimination of other techniques in favor of using distance  
 221 and cover to create and sustain a reaction gap.

222 (e) Training on the use of the lowest response to  
 223 resistance which is a possible and safe response to an  
 224 identified threat.

225 (f) Training on the reevaluation of an identified threat as  
 226 the management of the critical incident progresses.

227 (g) Training on crisis intervention strategies to  
 228 appropriately identify and respond to individuals suffering from  
 229 physical or mental disabilities, mental health issues, or  
 230 substance abuse issues with an emphasis on deescalation  
 231 techniques and promoting effective communication with such  
 232 individuals.

38-01746A-21

20211970

(h) Training on techniques that provide all officers with awareness and recognition of an individual's physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies.

(i) Training on other evidence-based approaches found to be appropriate by the commission which enhance deescalation techniques and skills.

(6) Not later than November 30, 2021, the Office of the Attorney General shall provide written guidance to law enforcement agencies in this state which employ law enforcement officers with regard to compliance with minimum standards under this section.

(7) Not later than January 1, 2022, each law enforcement agency in this state shall adopt a written policy stating that each of the law enforcement officers in its employ has an affirmative duty to use deescalation techniques in his or her interactions with citizens wherever possible.

(8) The commission shall create and publish on its website a model written policy in accordance with subsection (7). A law enforcement agency may fulfill its duty under subsection (5) by adopting the commission's model written policy.

(9) The Office of the Attorney General shall collect data regarding the implementation of training programs under this section and shall provide by July 1 of each year an annual report to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader describing that data.

(10)(5) Subject to available funding, the department shall employ and assign adequate support staff to the Commission for

38-01746A-21

20211970

Florida Law Enforcement Accreditation, Inc., and the Florida Corrections Accreditation Commission, Inc., in support of the accreditation programs established in this section.

(11)(6) Accreditation standards related to law enforcement and inspectors general used by the accreditation programs established in this section shall be determined by the Commission for Florida Law Enforcement Accreditation, Inc. Accreditation standards related to corrections functions and pretrial diversion programs shall be determined by the Florida Corrections Accreditation Commission, Inc.

Section 5. Section 943.1715, Florida Statutes, is amended to read:

943.1715 Basic skills training relating to diverse populations and deescalation training.—The commission shall establish and maintain standards for instruction of officers in the subject of interpersonal skills relating to diverse populations, with an emphasis on the awareness of cultural differences. Every basic skills course required in order for officers to obtain initial certification must include training in interpersonal skills with diverse populations. The commission shall also require that every basic skills course include in the curriculum at least 40 hours of deescalation training.

Section 6. Section 943.1716, Florida Statutes, is amended to read:

943.1716 Continued employment training relating to diverse populations and deescalation training.—The commission shall by rule require that each officer receive, as part of the 40 hours of required instruction for continued employment or appointment as an officer, instruction in the subject of interpersonal

38-01746A-21

20211970\_\_

291 skills relating to diverse populations, with an emphasis on the  
292 awareness of cultural differences. The commission shall also  
293 require by rule that every officer receive at least 16 hours of  
294 deescalation training, in addition to the 40 hours of required  
295 instruction for continued employment or appointment as an  
296 officer.

297 Section 7. This act shall take effect July 1, 2021.



# 2021 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
<b>BILL NUMBER:</b>	SB 1970
<b>BILL TITLE:</b>	Law Enforcement Reform
<b>BILL SPONSOR:</b>	Senator Pizzo
<b>EFFECTIVE DATE:</b>	July 1, 2021

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

PREVIOUS LEGISLATION	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

IDENTICAL BILLS	
<b>BILL NUMBER:</b>	HB1513
<b>SPONSOR:</b>	Duran

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
<b>DATE OF ANALYSIS:</b>	March 8, 2021
<b>LEAD AGENCY ANALYST:</b>	Dean Register
<b>ADDITIONAL ANALYST(S):</b>	Glen Hopkins, Danielle Terrell, Ashley Pennington, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Chris Bufano
<b>FISCAL ANALYST:</b>	Cynthia Barr

## POLICY ANALYSIS

### **1. EXECUTIVE SUMMARY**

Requires the Criminal Justice Standards & Training Commission (CJSTC) to adopt rules prohibiting law enforcement officers, correctional officers or correctional probation officers from using specified techniques and requiring employing agencies to report information related to use of such techniques. The bill also requires CJSTC to provide specified data regarding final commission orders to the National Decertification Index (NDI) and to establish and maintain standards for instruction of officers in specified subjects. The bill provides minimum required standards for de-escalation training and requires, by January 1, 2022, each law enforcement agency adopt a written policy stating each of their officers have an affirmative duty to use de-escalation techniques in his or her interactions with citizens whenever possible. The bill also requires the Commission for Florida Law Enforcement Accreditation (CFA) to create a model written policy and publish it on its website and requires every officer to receive a minimum of 40 hours of de-escalation training.

### **2. SUBSTANTIVE BILL ANALYSIS**

**1. PRESENT SITUATION:** Under 943.17, FS, the Commission, “shall, by rule, design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.”

The law enforcement basic recruit training curriculum incorporates training on implicit bias, de-escalation, procedural justice, crisis intervention with individuals suffering from physical or mental disabilities and recognition of individuals with physical and mental disabilities, mental health issues, and substance abuse issues. The training may be threaded through the curriculum as opposed to a specific course within the curriculum.

Currently, most of the training required in the bill is included in the basic recruit training programs (BRTPs), especially law enforcement B RTP. For instance, use of force, de-escalation, diversity and mental health/crisis intervention are covered, but duty to intervene is not. Additionally, the law enforcement B RTP is not broken down by lesson hours. Therefore, it’s not possible to pinpoint how many hours are devoted to specific topics, as they are threaded throughout the B RTP and within the scenario-based role play and communication exercises. CJSTC staff surveyed the state’s training centers and was provided the following range/breakdown of hours included in the law enforcement B RTP for use of force, de-escalation, diversity and mental health/crisis intervention. This information is based on the current 2020 law enforcement B RTP. The 2021 law enforcement B RTP, effective July 1, 2021, includes additional training on these topics.

<b>Topic</b>	<b>Hour Range</b>
Use of Force	26 - 152
De-escalation	22 - 90
Diversity	15 - 101
Mental Health/Crisis Intervention	6 - 78

In addition, in order to maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, FS. This statute requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every four years. The employing agency must document continuing training or education is job-related and consistent with the needs of the employing agency and report completion to CJSTC through the Automated Training Management System (ATMS).

A specialized post-basic 16-hour de-escalation course will be presented for CJSTC approval in May 2021. This course will meet the de-escalation training specified in the bill, with the exception of the mandatory requirement.

Instead of the term Use of Force, this bill refers to Response to Resistance. CJSTC uses the term Use of Force throughout all training documents.

Officer disciplinary actions resulting in revocation or relinquishment of an officer’s certification are currently reported to NDI. CJSTC considers excessive use of force as a moral character violation and can discipline an officer’s certification for a sustained violation including the use of any technique if the use of that technique is deemed to be excessive by the officer’s employing agency.

CFA standards manual currently addresses de-escalation, duty to intervene, chokeholds, vascular neck restraints and bias policing. Mental health counseling and procedural justice are currently not covered in the standards manual.

**2. EFFECT OF THE BILL:** Requires CJSTC to update the term Use of Force to Response to Resistance in all curriculum documents, online courses, examinations, forms and anywhere else it is reflected.

Requires at least 40 hours of de-escalation be included in all BRTPs. While the current B RTP has a lot of de-escalation training, it's impossible to pinpoint the current number of hours due to the topic being threaded throughout the training. In addition, this topic is covered within role-play and communication exercises. Therefore, it is very difficult to determine the number of hours contributed solely to de-escalation.

Like de-escalation, implicit bias, procedural justice and mental health are also topics covered in B RTP. Although these topics are covered, development and expansion would be required. Duty to intervene is not a topic currently covered in B RTP. Development and expansion of topics for all BRTPs will require workshops. Commission staff will conduct curriculum development workshops with subject matter experts (SMEs) to meet the training requirements outlined in this bill. The costs of the workshops are outlined under Additional Comments.

The requirement of a mandatory 16-hour de-escalation training will raise the number of continuing training or education required of law enforcement officers from the rate of 40 hours every four years to 56 hours every four years. Staff will also have to amend ATMS and follow up with agencies to document completions.

This bill amends s. 943.12, FS, to add a new paragraph requiring CJSTC adopt rules prohibiting the use of any technique that requires the application of pressure to the neck, throat, esophagus, trachea or carotid arteries alongside the trachea unless deadly force is authorized. It requires criminal justice employing agencies to report any use of such techniques to CJSTC and requires CJSTC to review any use of such techniques if deadly force is not authorized.

Additionally, this bill modifies requirements for CFA such as:

- Add the minimum training standards for de-escalation training for accredited agencies.
- Require the Office of the Attorney General to provide written guidance to law enforcement agencies no later than November 30, 2021 with regard to their compliance with the minimum standards.
- Require each law enforcement agency to adopt a written policy by January 1, 2022 which states that each law enforcement officer in its employ has the affirmative duty to use de-escalation techniques in his or her interactions with citizens wherever possible.
- Require CFA to create and publish a model written policy stating law enforcement officers have an affirmative duty to use de-escalation techniques in his or her interactions with citizens wherever possible and allows that agencies may adopt CFA's written policy.
- Require the Office of the Attorney General to collect data regarding the implementation of the training programs identified in this bill and provide an annual report describing the data to the President of the Senate, the Senate Minority Leader, the Speaker of the House and the House Minority Leaders by July 1 of each year.

Requires new or modification to existing CFA standards, including:

- Procedural Justice - This would require modifications to existing standard bias policing standard.
- De-escalation - This would require modifications to existing standard.
- Duty to Intervene - This would require modifications to existing standard.
- Mental Health Counseling - This would require the creation of a new standard.

**3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y ☒ N ☐**

If yes, explain:	<ul style="list-style-type: none"> <li>• Requires CFA to adopt standards on mental health counseling and modify standards on de-escalation techniques, duty to intervene and procedural justice.</li> <li>• Requires CJSTC to adopt rules prohibiting the use choke holds or other neck restraints. Other existing rules will have to be amended to implement the changes required in the bill.</li> </ul>
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	11B-27.0011; 11B-27.002; 11B-27.00212; 11B-27.005; 11B-35.001; 11B-35.003; and 11B-35.009

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☒ N ☐**

If yes, provide a description:	Requires the Office of the Attorney General to provide an annual report describing training data to the President of the Senate, the Senate Minority Leader, the Speaker of the House and the House Minority Leaders.
Date Due:	July 1 of each year
Bill Section Number:	Section 4; Lines 254 - 259

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS****1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☒ N ☐**

Revenues:	None
Expenditures:	Unknown, but significant. Impact will vary depending on the number of officers requiring training at a given agency.
Does the legislation increase local taxes or fees?	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐**

Revenues:	None
-----------	------

Expenditures:	<ul style="list-style-type: none"> <li>Requires CJSTC to develop additional instruction on de-escalation, procedural justice, implicit bias and mental health for all BRTPs. Development of the training curricula will cost approximately \$12,648 (see Additional Comments).</li> <li>Requires modifications to ATMS totaling approximately \$37,000 (see Technology Impact).</li> </ul> <p><b>Total FDLE Fiscal: \$49,648 nonrecurring</b></p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☒**

Revenues:	
Expenditures:	Unknown. Impact will vary depending on the number of officers requiring training at privatized-contract correctional facilities.
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

### TECHNOLOGY IMPACT

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐**

If yes, describe the anticipated impact to the agency including any fiscal impact.	Require IT work (analysis, design, programming and testing) to existing ATMS totaling approximately \$37,000 and estimated to take three months to complete.
--	--

### FEDERAL IMPACT

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

### LEGAL - GENERAL COUNSEL'S OFFICE REVIEW



Issues/concerns/comments and recommended action:	
--	--

### ADDITIONAL COMMENTS

- The bill has an effective date of July 1, 2021. However, that is not enough time to host workshops, compile research, develop the course and receive approval from CJSTC. FDLE recommends an effective date change of July 1, 2022.
- Lines 79–93 creates Subsection 17 in Section 2. It states CJSTC is to adopt rules prohibiting certain techniques and requires reporting on such uses of officers by their agencies to CJSTC. However, there is no direction to the Commission on how they are to respond, act or discipline if that is the intention.
- Lines 94–98 requires CJSTC to report actions other than revocation or relinquishment of certification to NDI. However, NDI does not currently accept data other than revocations and relinquishments. NDI is not administered by an entity affiliated with the State of Florida and may not amend the database to accept the additional data.
- Section 4 of the bill is ambiguous. It amends s. 943.125, FS, which relates to accreditation of state and local law enforcement, correctional facilities, public agency offices of inspectors general and certain pretrial diversion programs. Section 943.125(3), FS, identifies the accreditation program as voluntary. Because the training and policy requirements are added under this section, it is unclear if the requirements only apply to those agencies that choose to be accredited or all law enforcement agencies (as stated).
- Line 283 requires a minimum of 40 hours of de-escalation training to be included in BRTPs. The objective of the training is defined previously in the bill language. Designating hours prior to conducting research and consulting with subject matter experts typically hinders the development of the training. The objective of the bill language will likely better be met if the focus is on the content rather than designated hours. The following change is recommended: Line 283: ...~~at least 40 hours of~~ de-escalation training.
- Line 292-296 requires a minimum of 16 hours of de-escalation training in addition to the current 40 hours of mandatory retraining. The objective of the training is defined previously in the bill language. Designating hours prior to conducting research and consulting with subject matter experts typically hinders the development of the training. The objective of the bill language will likely better be met if the focus is on the content rather than designated hours. The following change is recommended: delete the changes in lines 292-296 since de-escalation training is added as a requirement for mandatory retraining in line 290.
- Incorporation/expansion of all training required (duty to intervene, de-escalation, implicit bias and procedural justice) for inclusion in all BRTPs would include the following costs:

Tasks	Hours	Cost
<b>Analysis</b>		
Identify SMEs	40	\$ 744
Research existing material	40	\$ 744
SME Workshop—Instructional Analysis	160	\$ 2976
<b>Design/Development</b>		
Develop course content	320	\$ 5,952
<b>Review/Revisions</b>	80	\$ 1,488
<b>Implementation</b>		
Course edit	40	\$ 744
<b>Total cost</b>		\$ 12,648

## **Senate CJ Committee Questions, 7-24-2020**

### **Question:**

1. Are LEOs provided training regarding:

- De-escalation;
- Use of force;
- “Behavioral health response” (which I believe is training on responding to those with mental health needs); and
- Duty-to-intervene.

If training is provided, we need to know if the training is provided in basic and/or continuing training, the number of hours of training, and any other information you may be able to provide relevant to the training, including if the particular training is subsumed under or is a component of a broader training category (e.g., de-escalation training as a component of use of force training).

We are aware of references in Chapter 943, F.S., to training regarding some of these subjects but are asking for specific information from CJSTC regarding this training to make sure we are fully aware and understand what training is provided in the subject areas previously discussed.

### **Answer:**

#### **Upcoming LE 2021 Basic Training**

Before outlining what is currently included in our Basic Recruit Training Program (BRTP), it is important to note that we have just completed a major rewrite of the Law Enforcement BRTP. The major rewrite comes after many years of planning and working toward weaving these very topics and others throughout the entire curriculum and not restricting them to a few lessons. The 2021 Law Enforcement BRTP expands on or adds new content as a direct response to the adoption of the report *Strengthening the Bonds of Trust between Law Enforcement and the Public*, also referred to as the *Community Safety Report*. Below is an overview of the report and how the 2021 Law Enforcement BRTP addresses its recommendations.

#### ***Community Safety Report***

In 2015, Criminal Justice Standards and Training Commission (CJSTC) staff received requests from law enforcement agencies and training academies across the state to provide training that would more effectively promote a positive environment between law enforcement and the public. After identifying many external training programs to address the concerns of citizens and ensure a safe community, CJSTC staff was not able to identify any one program that comprehensively addressed the diverse and complex range of needs of the Florida law enforcement community. Therefore, an advisory group was created to discuss the relationship between law enforcement and the community, and to create law enforcement training that more directly addresses this relationship in Florida. Participants in the advisory group consisted of law enforcement executives; training academy personnel; consultants; former CJSTC members; citizens; and representatives from the Florida Sheriffs Association, the Florida Police Chiefs Association, the State Law Enforcement Chiefs Association, the Police Benevolent Association, and the Fraternal Order of Police.

Many organizations across the country have taken a reactive approach to the results of current events, which often divide a community, with law enforcement on one side and the public on the other. A reactive approach responds to a single incident or an extreme example, rather than attempt to address underlying relationships between an agency and the community it serves. Therefore, the advisory group looked for practical solutions to improve the relationship between law enforcement and the community.

The final outcome of this group is a report: *Strengthening the Bonds of Trust between Law Enforcement and the Public*, also referred to as the *Community Safety Report*, which was presented to and adopted by the CJSTC in May 2017. The findings in this report focus on taking a proactive approach and developing long-term solutions. The intent of the report is to find ways to develop solid partnerships between law enforcement and the public, not to ignore past incidents of concern, nor to use these incidents as the sole reason for taking action. Their recommendations take into account an officer's experience from the time they enter the B RTP throughout the rest of their career. As a result, recommendations in the report are made not only to the CJSTC, but also to local law enforcement agencies and the Florida Criminal Justice Executive Institute (FCJEI).

CJSTC staff has already implemented some of the recommendations from the report in the Law Enforcement B RTP, namely the addition of 49 communication exercises that are designed to build recruits' skills with both communication and critical thinking/decision making. Staff continues to incorporate the recommendations into each edition of the B RTP. A standing group of subject matter experts (officers, supervisors, instructors, training center directors, and psychologists) was formed as the *Community Safety Report* advisory group in 2019 and they provided further recommendations for ways to effectively incorporate the recommendations into future editions. All of the recommendations from the report will be addressed in the 2021 curriculum, which will go to the CJSTC for approval in November 2020 with an effective date of July 1, 2021.

Enhanced training on many topics identified in the report that will be covered in the 2021 curriculum includes:

- Procedural justice as a concept that is defined at the beginning of the academy and woven throughout the curriculum; it is also featured as part of communication exercises' core competencies.
- The different roles of a law enforcement officer (supporter, stabilizer, and enforcer) to help recruits understand the need to respond dynamically as situations unfold.
- Emotional intelligence and empathy as tools officers can use in communicating with people.
- Implicit bias and avoiding bias-based policing and the impact of implicit and explicit bias in decision-making and policing.
- Police legitimacy
- LEED Framework (LEED – Listen and Explain with Equity and Dignity), including responding with professionalism and empathy to people who appear different from oneself
- Officer wellness (including physical and mental health)
- Power imbalances
- Serving your community
- Fear from some community members and how to address this issue
- De-escalation
- Communication skills

In addition, as recommended in the report, role-play scenarios and communication exercises already incorporated in the B RTP teach effective use of interpersonal skills and use-of-force techniques that are less lethal. These scenarios are also being incorporated in post-Basic training.

### **Current B RTP and Post-Basic Training**

Below is a synopsis of what the B RTP and post-Basic training currently include on these topics. The curriculum does not assign a specific number of hours for a topic because we only break down the hours by chapter, not by topics within a chapter. We believe the decision of how much time to devote to a particular topic is best left up to instructors and training center coordinators, who work with local agencies to provide the training that is most needed and relevant for their academies.

These topics are also woven throughout the curriculum in role-plays and communication exercises. Through these activities all recruits get practice in responding to issues they will encounter on the job.

### **De-escalation**

#### **B RTP**

##### **Defensive Tactics (80-hour course)**

- De-escalation is taught in Defensive Tactics from a different standpoint than de-escalating through communication. De-escalation in Defensive Tactics teaches the officer to immediately reduce their use of force during an already established use-of-force situation once they gain the subject's compliance.

##### **Interactions in a Diverse Community (40-hour course)**

- De-escalation of a situation through communication is taught as a part of professional communication and resolving conflicts.

#### **Post-Basic Training**

##### **Defensive Tactics Instructor Course (Instructor course #802)**

This course is divided into 6 units:

- The role of the instructor in teaching use of force
- Decision-making
- Levels of resistance
- De-escalation
- Use-of-force guidelines
- Legal issues around the use of force

##### **Advanced Defensive Tactics Course (course #1405)**

This course contains a unit on the use of force, including discussion of:

- Escalation, De-escalation, and Disengagement

##### **Field Training Officer Course (Advanced course #809)**

This course contains:

- Use-of-force evaluation: Maintains control without excessive force. Applies appropriate force by policy. De-escalates force when resistance is overcome. Precedes application of force with appropriate warnings.
- Role-play exercise assesses if the new officer knows how to use interpersonal skills to de-escalate a volatile situation

#### Crisis Intervention for School Resource Officers (Specialized course #1401)

De-escalation is one of the primary skills incorporated throughout the course, including:

- De-escalating students with mental health challenges (e.g., anxiety, autism, aggressive behaviors).
- De-escalation techniques to calm students and respond to crisis situations.

### **Use of Force**

#### **BRTP**

##### Legal (64-hour course)

- Contains all of the legal terminology related to Use of Force

##### Firearms (80-hour course)

- Contains a section on making use-of-force decisions

##### Defensive Tactics (80-hour course)

- Contains a section on making use-of-force decisions

##### Conducted Electrical Weapon/Dart-Firing Stun Gun (8-hour course)

- Contains a section on making use-of-force decisions.

##### Traffic Stops (30-hour course)

- Discusses discriminatory profiling and how to interact with drivers

#### **Post-Basic Training**

##### Defensive Tactics Instructor Course (Instructor course #802) (80-hour course)

This course is divided into 6 units:

- The role of the instructor in teaching use of force
- Decision-making
- Levels of resistance
- De-escalation
- Use-of-force guidelines
- Legal issues around use of force

##### Advanced Defensive Tactics Course (Advanced course #1405)

This course contains:

- Understand the use of reasonable and necessary force when taking a suspect into custody, when working in a correctional environment, or when defending self or others.
- Objective Reasonableness
- Authority to Use Force
- Structure of the Force Guidelines
- Subject Resistance Levels
- Officer Response Options
- Factors for Deciding to Use Deadly Force
- Totality of Circumstances

#### Advanced Report Writing and Review (Advanced course #068)

It is estimated that 3 hours of this 40-hour course covers the use of force. This course contains:

- Writing a use-of-force report
- Factors of the *Graham v. Connor* case related to the use of force
- Factors that help an officer articulate a reasonable response to resistance
- The difference between the use of specific facts and vague conclusions when articulating force
- The importance of an accurate use-of-force report
- Writing an accurate and complete use-of-force report

#### Line Supervision (Advanced course #006)

It is estimated that 2 hours of this 80-hour course cover the use of force. This course discusses:

- Officers must follow their department's use-of-force policy.
- The potential liability associated with use-of-force incidents
- An officer's response should be objectively reasonable and necessary based upon the subject's resistance and the totality of the circumstances.
- Section 776.05—Law enforcement officers; use of force in making an arrest
- Section 944.35—Authorized use of force (corrections)
- A review of the CJSTC Force Guidelines

#### Discipline and Special Confinement Techniques (Advanced course #057)

It is estimated that 4 hours of this 40-hour course covers the Use of Force topic. The course discusses:

- Use of force as legal guidelines regarding the use of force to apprehend a suspect, make an arrest, or defend self or others
- Statutes, rules, and policies and procedures which relate to the use of force within county and state correctional facilities
- Guidelines for handling violent inmates as per s. 944.35, F.S.
- Procedures for reporting use of physical force in state, county, and municipal correctional facilities

## **Behavioral health response**

### **B RTP**

#### Interactions in a Diverse Community (40-hour course)

This entire chapter focuses on communication in general and communication with specific populations, including mentally ill and developmentally delayed.

### **Post-Basic Training**

#### Crisis Intervention (Advanced course #053) (40-hour course)

- Legal Aspects of Crisis Intervention (3 hours)
- Crisis Theory (2 hours)
- Crisis Intervention (3.5 hours)
- Assessment and Resolution (2 hours)
- Mental Illness or Disorder and Post-Traumatic Stress Syndrome (4 hours)
- Substance Abuse (2 hours)
- Child/Adolescent Issues (3.5 hours)
- Crisis Negotiation Situations (3.5 hours)
- Safety in Unique Crisis Situations (1 hour)
- Referral Process and Services (2 hours)
- Role-play Scenarios Practicum (8 hours)

#### Crisis Intervention for School Resource Officers (Specialized course #1401) 24-hour course

- This course equips school resource officers with the specialized intervention skills required for first response to mental health and substance abuse crises in a K-12 school.

#### Hostage Negotiation (Advanced course # 093)

- Develop solution alternatives
- Employ intervention strategies
- Recognize warning signs of abuse
- Entering a situation that has reached a critical phase in order to modify and defuse it
- How an aggressive approach by an officer can result in negative responses and escalating situations
- Employ crisis intervention techniques

4 hours of a 40-hour course

#### Substance Abuse Awareness and Education (Advanced course #074)

- Patterns, Behavioral/Psychological Characteristics, and Stages of Substance Use and Abuse (3 hours)
- Drug Prevention Theory (1 hour)
- Legal Aspects of Substance Abuse (2 hours)
- Substance Abuse Effects on Society (1 hour)
- Substance Abuse Information Resources (1 hour)

- Substance Abuse Presentations for Specific Populations (10 hours)

18 hours of a 40-hour course

#### Domestic Intervention & Investigations (Advanced course # 091)

- Recognize behavioral characteristics of domestic violence
- Recognize warning signs of abuse
- Entering a situation that has reached a critical phase in order to modify and defuse it
- How an aggressive approach by an officer can result in negative responses and escalating situations
- Employ crisis intervention techniques

4 hours of a 40-hour course

#### Crimes Against the Elderly (Advanced course # 100)

- The causes and health problems associated with depression in the elderly
- Acute mental illness in the elderly
- Implications for law enforcement when interacting with an elderly person with mental illness
- Baker Act requirements for involuntary examinations
- Ways the officer can improve communication with Alzheimer's and dementia patients
- Problem behaviors associated with Alzheimer's and dementia patients

#### Discipline and Special Confinement Techniques (Advanced course #057)

- Identify inmates with mental/behavioral challenges
- Identify inmates who may be at risk for suicide
- Identify inmates facing crisis situations
- Identify inmates who have been determined by the health authority as special needs inmates who need close monitoring

4 hours of a 40-hour course

#### Emergency Preparedness for Corrections Officers (Advanced course #085)

- The legal ramification and consequences of not following agency policy and procedure regarding use of force

4 hours of a 40-hour course

### **Duty to intervene**

B RTP

Duty to intervene is not taught at the Basic level. Since duty to intervene is dictated at the agency level, by agency policy, the CJSTC does not teach this.

Post-Basic Training

#### Line Supervision (Advanced course #006)



- Describe federal and state laws that impact supervisory practices and methods for successful interventions. The most common area of liability against a supervisor over the last decade is “failure to intervene,” which applies to any supervisor who fails to stop or intercede in an unconstitutional act.
- A supervisor may be held criminally liable if he or she knows that their officers are violating peoples’ constitutional rights and choose not to intervene.
- If a supervisor knows his or her officers are involved in misconduct and fails to take corrective action, the supervisor may be held liable.
- If a policy or custom of the jurisdiction is the moving force behind a constitutional violation, the jurisdiction may be held liable.

One hour of an 80-hour course

## **Diversity**

B RTP

Introduction to Law Enforcement (10-hour course)

Interactions in a Diverse Community (40-hour course)

Calls for Service (36-hour course)

Traffic Stops (30-hour course)

- Professional communication, conflict resolution, avoiding bias, and working with diverse groups are woven throughout the basic recruit program. In addition to the textbook content describing these topics, recruits get hands-on practice through communication exercises and role-play scenarios.

## **Question:**

How does CJSTC integrate instructions on interpersonal skills relating to diverse populations? How does CJSTC include standardized proficiency instruction relating to high-risk and critical tasks which include, but are not limited to, stops, use of force and domination, and other areas of interaction between officers and members of diverse populations. How does CJSTC integrate instructions on interpersonal skills relating to diverse populations into continuing training? How many hours of basic and continuing training is provided on interpersonal skills relating to diverse populations?

## **Answer:**

B RTP

There are currently 49 communication exercises and 25 role-play scenarios that give recruits practice in communication and the skills needed on the job. The communication exercises, in particular, focus on professional communication in a variety of situations and with diverse types of people. Again, because this is woven throughout the curriculum and within scenarios, a particular number of hours cannot be determined or provided.

Post-Basic Training

#### Florida General Instructor Techniques Course (Instructor course #1186)

Provides:

- Effective techniques for teaching in a diverse instructional environment
- Potential obstacles to diversity
- Personal biases and their potential effects on instruction
- Strategies for facilitating classroom discussion in a diverse environment
- Strategies to assist development of an inclusive curriculum

4 hours in a 64-hour course

#### Line Supervision (Advanced course #006) (80-hour course)

Discusses:

- The ability to establish and maintain effective working relationships and awareness of cultural diversity.
- Supervisor liability and an overview of various issues including hostile work environment, discrimination, workplace diversity, and use of force, and violations of the Whistle-blowers Protection Act.

#### Crisis Intervention for School Resource Officers (Specialized course #1401) (24-hour course)

- The role of respecting diversity and cultural differences when responding to and supporting students in crisis is integrated throughout the course.

#### Discriminatory Profiling and Professional Traffic Stops (Specialized course #1131) (4-hour course)

- Understand practices of discriminatory profiling
- Demonstrate a protocol for using good interpersonal skills
- Discuss the issues faced by minorities
- Relate constitutional and case laws that impact how and when traffic stops are conducted
- Identify officer behavior that can help to minimize tension and maximize the cooperation of residents

#### Field Training Officer Course (Advanced course #809)

- Portions of this course evaluate the trainee's ability to interact effectively and appropriately with members of ethnic/cultural/social groups other than their own.

#### Criminal Justice Officer Ethics (Specialized course #113)

Approximately 45 minutes out of an 8-hour course discuss the following topics:

- Diverse communities must have faith in the fairness and impartiality of their police.
- Police officers must refrain from fostering disharmony in their communities based upon diversity, and perform their duties without regard to race, color, creed, religion,

national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.

- Police officers shall provide every person in our society with professional, effective and efficient law enforcement services.
- Police officers shall not express, whether by act, omission or statement, prejudice concerning race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.
- Police officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.

**Question:**

How does the CJSTC develop and/or determine the criteria/curricula for basic and continuing training in the various training subjects?

**Answer:**

The CJSTC is mandated by Florida Statute 943.12 to develop and provide basic recruit training, as well as develop and administer examinations to assess the knowledge, skills, and abilities of potential law enforcement officers to ensure competency prior to entering the profession.

All B RTP curriculum is based upon a job analysis of the entry-level officer position. Because the Legislature continually mandates additional requirements and professional practices change, the curriculum must be updated to reflect those changes. Although the CJSTC staff, who is employed by the Florida Department of Law Enforcement (FDLE), routinely examines and evaluates entry-level standards, B RTP curriculum, and licensing examinations, it is important to ensure that the job analysis remains contemporary and accurately describes the job as it exists today. Therefore, the job analysis is updated every 5-6 years.

The last law enforcement job analysis concluded in December 2017 and was adopted by the CJSTC in January 2018. As with all job analyses, all agencies in the state of Florida are invited to participate in the survey. This particular analysis gathered survey data from 3,659 incumbent law enforcement officers and 988 supervisors representing 111 agencies. Frequency and criticality ratings were obtained for 47 job duties, 54 knowledge, skills, abilities, and personal characteristics (KSAPCs), and 36 physical abilities.

The purpose of obtaining this data was to identify the important job duties that are performed by entry level, uniformed, law enforcement officers statewide, as well as the knowledge, skills, abilities, personal characteristics, and physical abilities necessary to perform the identified duties. The data provides a basis to validate and update the training curriculum, as well as provide ongoing validation of the Basic Abilities Test, and the State Officer Certification Examination.

In addition to the job analysis, the *Community Safety Report* was also used to identify training topics that need to be addressed.

For post-Basic training, CJSTC staff conducts post-Basic training needs assessments. In 2014, an in-depth needs assessment was conducted to identify post-Basic training needs as defined by the job, training that is currently available to officers, and training needs that are not being met. To conduct the assessment, information was collected from officers, agencies, and training

centers. Using the results from this assessment, staff worked to update and create training that was requested directly from the field.

The CJSTC continually evaluates training needs and often tasks staff to research and develop additional courses. Staff also receives training needs and requests from the field (e.g. legislative mandates, criminal justice agencies, criminal justice training centers, etc.). In both cases, if a need is determined, CJSTC staff works with subject matter experts across Florida to develop the B RTP and post-Basic (continuing education) courses. All CJSTC courses, B RTP and post-Basic, must be reviewed and approved by the CJSTC before becoming effective. Updates and revisions to the courses must also be reviewed and approved by the CJSTC. Therefore, the CJSTC has complete oversight of CJSTC courses. FDLE members that staff the Commission only assist in the development of the training; the CJSTC must review and approve it before it becomes effective.

**Question:**

How is basic and continuing education training currently provided? Does the FDLE, the employing public agency, a private vendor, or a combination of public agencies and private vendors provide the basic and continuing training? Do you know what, if any, protection from civil and criminal liability is currently available to a (state or local) law enforcement agency and private vendor providing basic or continuing training, especially training regarding the subject areas previously discussed?

**Answer:**

The B RTP curriculum is only developed and approved by the CJSTC, and must be administered at a CJSTC certified training school within the state of Florida. Post-Basic training works a little differently. While post-Basic CJSTC courses can be used for mandatory retraining requirements, other courses can as well. In Florida, agency heads have the authority to approve any training he or she feels is appropriate for mandatory retraining. No additional documentation is required outside of normal proof of course completion that would be provided to the attending officers. Therefore, mandatory retraining can be accomplished in a variety of ways. It can be administered at the agency, at a CJSTC-certified training center, or by a private vendor. Agency heads in Florida have complete autonomy on how mandatory retraining is accomplished for their officers.

**Question:**

The fifth and final question relates to best practice guidelines for policing. Current federal legislation (S. 3985, the "JUSTICE Act" by Senator Scott and others), in part, establishes a commission to be known as the "National Criminal Justice Commission." This commission is tasked with developing recommended best practice guidelines to ensure fair and effective policing tactics and procedures that encourage equitable justice, community trust, and law enforcement officer safety. Additionally, the commission must establish best practices for the hiring, firing, suspension, and discipline of law enforcement officers, best practices for developing standards for officer due process, as well as best practices for community transparency and optimal administration of law enforcement agency. Has the FDLE or, to your knowledge, any other Florida law enforcement agency developed best practice guidelines for policing, including guidelines

similar to those described in the federal legislation or, absent such guidelines, developed more limited guidelines for specific subject areas (e.g., use of force).? If any such guidelines exist, are they followed by all Florida law enforcement agencies or only the agencies involved in developing the guidelines?

## **ANSWER**

In Florida, the CJSTC oversees the certification, employment, training, and conduct of its law enforcement, correctional and correctional probation officers. Through the Professional Compliance process, the CJSTC works to achieve increased professionalism by disciplining individual officers who tarnish the criminal justice profession through their misconduct. The CJSTC recognizes that officer misconduct is a serious threat to the safety of Florida's residents.

The CJSTC maintains categories of violations that can lead to an officer being disciplined. The first category is when an officer is no longer statutorily eligible to hold certification. This occurs when an officer pleads *nolo contendere*, pleads guilty, or is convicted of any felony; or pleads *nolo contendere*, pleads guilty, or is convicted of a misdemeanor involving perjury or false statement. These violations result in the loss of certification.

The second category of violations is failure to maintain "good moral character." These violations are outlined in CJSTC Rule 11B-27.0011(4), Florida Administrative Code. The CJSTC defines failure to maintain good moral character as:

- Any act constituting a felony offense regardless of criminal prosecution;
- A plea of guilty, an adjudication of guilt, or a verdict of guilty after a criminal trial, or any act constituting one of 63 enumerated misdemeanor offenses regardless of criminal prosecution;
- Any principal, accessory, attempt, solicitation, or conspiracy, pursuant to Chapter 777, F.S., where there would have been a felony offense had the crime been committed or completed;
- Any act in any jurisdiction other than the State of Florida, which if committed in the State of Florida, would constitute any offense listed in Rule 11B-27.0011 (4), F.A.C.;
- One of 15 non-criminal acts or conduct;
- A positive drug test after an officer's unlawful injection, ingestion, inhalation, or other introduction of any controlled substance.

Florida Statutes and Florida Administrative Code require an employing agency to conduct an internal investigation if there is cause to believe that the officer has committed a moral character violation. An investigation must be conducted and concluded, and shall contain an official disposition, even if the officer resigns, retires or is terminated while under investigation. If the agency sustains a violation, the findings and all supporting documentation must be submitted to the CJSTC through the CJSTC's staff at FDLE. If an officer voluntarily separates or retires while being investigated for violation of s. 943.13(4), F.S., or for a violation of moral character standards as outlined in CJSTC rule, the employing agency must conduct an internal investigation and report its findings to CJSTC staff. The same requirement exists if an officer is terminated or voluntarily separates or retires in lieu of termination.

CJSTC staff reviews all submitted cases to determine if the case should be presented to the CJSTC's Probable Cause Determination Hearing. If no probable cause review is initiated, then the case is closed and the employing agency is notified. If the probable cause panel determines that probable cause exists, then an administrative complaint is filed and issued to the officer. The officer may then elect to appear at the CJSTC's Disciplinary Hearing in an informal hearing, voluntarily relinquish certification, or request a formal hearing with the Division of Administrative Hearings.

CJSTC discipline of officer certification can range from a written reprimand, probation or suspension of certification, to revocation. CJSTC discipline is based on recommended penalties for all violations.

Since 2001, the International Association of Directors of Law Enforcement Standards and Training (IADLEST) has maintained the National Decertification Index (NDI). NDI is a searchable, national registry of certification or license revocation actions relating to officer misconduct. The inclusion of an individual in this database does not necessarily preclude any individual from appointment as an officer. The records contained in the NDI are provided by participating government agencies. Access to the database is available at no charge to vetted law enforcement officers and background investigators. The NDI currently contains 28,410 actions reported by 45 certifying organizations. FDLE has served as Florida's NDI representative since 2001. Whenever the CJSTC revokes an officer's certification, or accepts an officer's relinquished certification, the information is added by FDLE members to NDI. Over 10,000 Florida revocations and relinquishments have been added to NDI. Florida has 470 registered NDI users with access to this nationwide misconduct database.

The Automated Training Management System (ATMS) serves as the CJSTC's central repository of officer records for Florida. This database houses employment records, officer certification information and officer training records. The system also serves as the central repository for officer discipline cases that are being reviewed by CJSTC staff for disciplinary action by the CJSTC. Currently, over 3,100 users representing 490 criminal justice agencies in Florida have access to ATMS. Much of the data within ATMS is public record and is routinely provided to various media outlets and any other members of the public.



# 2021 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
<b>BILL NUMBER:</b>	SB 1192
<b>BILL TITLE:</b>	Mental Illness Training for Law Enforcement Officers
<b>BILL SPONSOR:</b>	Representative Powell
<b>EFFECTIVE DATE:</b>	October 1, 2021

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

PREVIOUS LEGISLATION	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
<b>BILL NUMBER:</b>	HB 879
<b>SPONSOR:</b>	Representative Hunschofky

IDENTICAL BILLS	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
<b>DATE OF ANALYSIS:</b>	February 25, 2021
<b>LEAD AGENCY ANALYST:</b>	Dean Register
<b>ADDITIONAL ANALYST(S):</b>	Ashley Pennington, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Chris Bufano
<b>FISCAL ANALYST:</b>	Cynthia Barr

---

---

## POLICY ANALYSIS

---

### **1. EXECUTIVE SUMMARY**

Requires FDLE to establish a continued employment training component relating to mental illness and specifies instruction to be included. The bill provides that completion of training may count toward continued employment or appointment instruction requirements.

### **2. SUBSTANTIVE BILL ANALYSIS**

**1. PRESENT SITUATION:** Under 943.17, FS, the Commission, “shall, by rule, design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(1) The commission shall:

(a) Design, implement, maintain, evaluate, revise, or adopt a basic recruit training program for the purpose of providing minimum employment training qualifications for all officers to be employed or appointed in each discipline.”

To maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, FS. This statute requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every 4 years. The employing agency must document that the continuing training or education is job-related and consistent with the needs of the employing agency, and report completion of the training to the Criminal Justice Standards and Training Commission (CJSTC) through the Automated Training Management System (ATMS).

Law enforcement agencies accredited through the Commission on Accreditation for Law Enforcement Agencies, Inc., (CALEA) must comply with an accreditation standard that requires agencies to have annual training for their law enforcement officers and other agency personnel who may come into contact with the public in dealing with individuals who suffer from mental illness (CALEA standard 41.2.7). The standard further directs that the training should be developed in collaboration with mental health professionals and should include access to the court system and applicable case law. The standard indicates that alternatives to arrest, such as citations, summonses, referrals, informal resolutions and warnings, should be considered to ensure the best treatment options are used and to keep those with mental health issues out of the criminal justice system. The training is to be reviewed and updated annually. Currently 43 state and local law enforcement agencies in Florida are accredited through CALEA.

**2. EFFECT OF THE BILL:** Creates s. 943.17161, FS, to require continued employment training relating to mental illness for law enforcement officers. Currently, post-basic mental illness training is covered the CJSTC’s Crisis Intervention for School Resource Officers (SROs) course. However, because this course is primarily taken by SROs, many officers do not receive this training.

To meet the requirements of this bill, a post-basic course focused solely on mental illness would need to be developed and approved by CJSTC. Associated costs for the development of the post-basic course have been identified in the Additional Comments section.

Traditionally, training assumes officers will encounter a broad range of potential causes and co-occurring causes. This requires a quick initial assessment of what they’re dealing with so they can choose the best response and means officers must look for substance abuse, emotion triggers, traumatic brain injury, mental illness, etc.

This bill limits the scope by choosing the definition of mental illness in s. 394.455(29) FS. That definition specifically limits training on responding to people with developmental disability, intoxication or dementia, traumatic brain injury, antisocial behavior or substance abuse. However, if the bill had a slightly broader definition of mental illness, this could be included in a Crisis Intervention Training course, which would capture the intent of the bill and be more effective than a course based on the narrower definition defined in the bill.

The bill has an effective date of October 1, 2021. However, that is not enough time to host workshops, compile research, develop the course and receive approval from the CJSTC. FDLE recommends an effective date change of July 1, 2022.



**3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y ☐ N ☒**

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒**

If yes, provide a description:	
Date Due:	
Bill Section Number:	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS****1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☒**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	

If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	
---	--

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐**

Revenues:	
Expenditures:	The bill would require workshops with subject matter experts and staff time and salary. The estimated cost of the course development and implementation is \$10,267 and can be accomplished with existing resources (see Additional Comments).
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☒**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT
-------------------

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒**

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

FEDERAL IMPACT
----------------

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☐**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

### LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
--	--

### ADDITIONAL COMMENTS

- FDLE recommends an effective date change of July 1, 2022.
- Creating a CJSTC post-basic mandatory retraining course to include instruction on mental illness would include the following costs:

Tasks	Hours	Cost
<b>Analysis</b>		
Identify SMEs	40	\$ 744
Research existing material	40	\$ 744
SME Workshop—Instructional Analysis	80	\$ 1,488
<b>Design/Development</b>		
Develop course content	280	\$ 5,208
<b>Review/Revisions</b>	80	\$ 1,488
<b>Implementation</b>		
Course edit	32	\$ 595
<b>Total cost</b>		<b>\$ 10,267</b>

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

**APPEARANCE RECORD**

03/16/21

*Meeting Date*

1970

*Bill Number (if applicable)*

Topic Law Enforcement Reform

*Amendment Barcode (if applicable)*

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Ave

Phone 850-339-0075

*Street*

Tallahassee

FL

32301

Email idelgado@flaccb.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21  
Meeting Date

SB1970  
Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Denise Brock

Job Title Executive Director

Address 2048 Ponce De Leon Ave.  
Street

Phone 561-855-0833

WPB  
City

FL  
State

33407  
Zip

Email denise@floridacarescharity.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Cares

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

March 16

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1970

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Catherine Ragonese

Job Title \_\_\_\_\_

Address 1309 White Oak Lane

Street

Phone 772-489-4484

Fort Pierce FL 34982

City

State

Zip

Email Ragoneseabbas@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-16-21

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB1970

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Thomas Ragonese

Job Title \_\_\_\_\_

Address 1309 White Oak Lane

Phone 772-489-4484

Street

Fort Pierce FL 34982

City

State

Zip

Email ragoneseabbq.5@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/12

Meeting Date

561970

Bill Number (if applicable)

Topic Criminal Justice - Law enforcement reform

Amendment Barcode (if applicable)

Name Laurette Philipsen

Job Title 0

352-533-7202

Address 7240 Westwind dr

Street

Port Richey FL

City

State

34668

Zip

Phone

adupate philipson@gmail.com

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

1970

Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Kristellys Estange

Job Title Aide to city commissioner

Address 406 W 8th Ave  
Street

Phone 904 804 0010

Tallahassee FL 32303  
City State Zip

Email kristellys@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-2021

Meeting Date

1970

Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Jacqueline Miner

Job Title Student

Address 800 Basin St

Street

Phone 813-943-5612

Tallahassee

FL

32304

City

State

Zip

Email JackieMiner02@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/21

Meeting Date

1970

Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

Street

Tallahassee

FL

32308

Email Greg@WaypointStrat.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

1970

Bill Number (if applicable)

Topic

Law Enforcement Reform

Amendment Barcode (if applicable)

Name

Ida V. Eskamani

Job Title

Address

Street

Phone

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Rising

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-16-21

Meeting Date

1970

Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Barbara Deane

Job Title \_\_\_\_\_

Address 625 E. Bernard St

Street

Phone 251-4280

Jacksonville FL 32308

City

State

Zip

Email barbaradeane@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

☒ Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/2021

Meeting Date

1970

Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

City

State

Zip

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/16/21

Meeting Date

SB 1970

Bill Number (if applicable)

Topic Law Enforcement Reform

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 S Monroe St

Phone 850-681-0024

Street

Tallahassee

FL

32301

Email jorge@flapartners.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Association of Criminal Defense Lawyers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

3/16/21

*Meeting Date*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

1970

*Bill Number (if applicable)*

Topic Law Enforcement Standards

*Amendment Barcode (if applicable)*

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

Phone 850-488-6850

*Street*

Tallahassee

Fl

32301

Email ndaniels@flpda.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/1



**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

3/16/21

*Meeting Date*

1970

*Bill Number (if applicable)*

Topic Law Enforcement Reform

*Amendment Barcode (if applicable)*

Name Carrie Boyd

Job Title Policy Director

Address P.O. Box 10788

Phone 850-570-9560

*Street*

Tallahassee

FL

32303

Email carrie.boyd@splcenter.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/16/21

Meeting Date

SB 1970

Bill Number (if applicable)

Topic LAW ENFORCEMENT REFORM

Amendment Barcode (if applicable)

Name THEORE MANNELLI

Job Title SAO II LEG. AFFAIRS DIR

Address 1607 FERNANDO DR

Phone 850-212-5372

Street

TALLAHASSEE

FL

32303

City

State

Zip

Email tmannelli45@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing STATE ATTORNEY KATHERINE FERNANDEZ RUNDLE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

# CourtSmart Tag Report

**Room:** SB 110

**Case No.:**

**Type:**

**Caption:** Senate Criminal Justice Committee

**Judge:**

**Started:** 3/16/2021 12:32:42 PM

**Ends:** 3/16/2021 1:30:04 PM

**Length:** 00:57:23

12:32:41 PM Meeting called to order by Chair Pizzo  
12:32:44 PM Roll call by CAA Sue Arnold  
12:32:50 PM Quorum present  
12:32:56 PM Comments from Chair Pizzo  
12:33:32 PM Introduction of Tab 3, CS/SB 932 by Chair Pizzo  
12:33:46 PM Explanation of CS/SB 932, Minor Time-sharing for Parent Convicted of or Had Adjudication withheld for a Specified Offense by Senator Wright  
12:35:35 PM Comments from Chair Pizzo  
12:36:04 PM Senator Brandes in debate  
12:37:32 PM Comments from Senator Wright  
12:37:54 PM Comments from Chair Pizzo  
12:38:27 PM Roll call by CAA  
12:38:35 PM CS/SB 932 reported favorably  
12:38:47 PM Introduction of Tab 4, CS/SB 936 by Chair Pizzo  
12:38:57 PM Explanation of CS/SB 936, Recovery of Spaceflight Assets by Senator Wright  
12:39:58 PM Question from Senator Powell  
12:40:51 PM Response from Senator Wright  
12:40:58 PM Follow-up question from Senator Powell  
12:41:12 PM Follow-up question from Senator Powell  
12:41:26 PM Response from Senator Wright  
12:41:32 PM Question from Chair Pizzo  
12:41:37 PM Response from Senator Wright  
12:42:22 PM Speaker Jeff Sharkey, SPACEX in support  
12:43:45 PM Question from Senator Brandes  
12:43:52 PM Response from Mr. Sharkey  
12:45:58 PM Question from Chair Pizzo  
12:46:14 PM Response from Mr. Sharkey  
12:48:16 PM Comments from Chair Pizzo  
12:48:27 PM Chair Pizzo in debate  
12:48:44 PM Senator Wright in closure  
12:48:55 PM Roll call by CAA  
12:49:14 PM CS/SB 936 reported favorably  
12:49:27 PM Introduction of Tab 5, SB 1608 by Chair Pizzo  
12:49:42 PM Explanation of SB 1608, Protecting Consumers Against Pandemic-related Fraud by Senator Bean  
12:50:54 PM Introduction of Amendment 230774 by Chair Pizzo  
12:51:06 PM Explanation of Amendment by Senator Bean  
12:51:20 PM Comments from Chair Pizzo  
12:51:40 PM Closure waived  
12:51:45 PM Amendment adopted  
12:51:51 PM Question from Chair Pizzo  
12:51:57 PM Response from Senator Bean  
12:52:37 PM Follow-up question from Chair Pizzo  
12:52:46 PM Response from Senator Bean  
12:52:51 PM Pamela Burch Fort, NAACP Florida State Conference waives in support  
12:52:57 PM Trish Neely, League Women Voters Florida waives in support  
12:53:14 PM Comments from Chair Pizzo  
12:53:18 PM Closure waived  
12:53:21 PM Roll call by CAA  
12:53:29 PM CS/SB 1608 reported favorably  
12:53:38 PM Introduction of Tab 6, 1818 by Chair Pizzo  
12:53:54 PM Explanation of SB 1818, Law Enforcement Office Training by Senator Burgess  
12:54:30 PM Introduction of Amendment Barcode 171434 by Chair Pizzo

12:54:38 PM Explanation of Amendment by Senator Burgess  
12:54:51 PM Comments from Chair Pizzo  
12:55:13 PM Closure waived  
12:55:21 PM Amendment adopted  
12:55:28 PM Kristellyus Estanga waives in support  
12:55:34 PM Carrie Boyd, SPLC Action Fund waives in support  
12:55:55 PM Ingrid Delgado, Florida Conference of Catholic Bishops waives in support  
12:56:07 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in support  
12:57:59 PM Speaker Catherine Ragonese in support  
12:58:54 PM Speaker Thomas Ragonese waives in support  
1:00:06 PM Comments from Chair Pizzo  
1:00:11 PM Senator Burgess in closure  
1:01:13 PM Comments from Chair Pizzo  
1:02:12 PM Roll call by CAA  
1:02:20 PM CS/SB 1818 reported favorably  
1:02:30 PM Introduction of Tab 1, CS/SB 626 by Chair Pizzo  
1:02:49 PM Explanation of CS/SB 626, Juvenile Justice by Senator Bracy  
1:04:09 PM Introduction of Amendment Barcode 508726 by Chair Pizzo  
1:04:15 PM Explanation of Amendment by Senator Bracy  
1:04:30 PM Comments from Chair Pizzo  
1:04:44 PM Closure waived  
1:04:47 PM Amendment adopted  
1:04:50 PM Comments from Chair Pizzo  
1:05:06 PM Ingrid Delgado, Florida Conference of Catholic Bishops waives in support  
1:05:12 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in support  
1:05:16 PM Jacqueline Miner waives in support  
1:05:19 PM Carrie Boyd, SPLC Action Fund waives in support  
1:05:24 PM Pamela Burch Fort, NAACP Florida State Conference waives in support  
1:05:27 PM Greg Black, R Street Institute waives in support  
1:05:32 PM Kristellys Estanga waives in support  
1:05:38 PM Trish Neely, League Women Voters Florida waives in support  
1:05:42 PM Nancy Daniels, Florida Public Defender Association waives in support  
1:05:48 PM Barbara DeVane, FL NOW waives in support  
1:05:52 PM Ida Eskamani. Florida Rising waives in support  
1:06:14 PM Speaker Laurette Philipson in support  
1:06:30 PM Comments from Chair Pizzo  
1:07:39 PM Chair Pizzo in debate  
1:08:16 PM Senator Bracy in closure  
1:08:20 PM Roll call by CAA  
1:08:41 PM CS/CS/SB 626 reported favorably  
1:08:57 PM Introduction of Tab 7, SB 1850 by Chair Pizzo  
1:09:17 PM Explanation of SB 1850, Electronic Threats by Senator Perry  
1:09:33 PM Comments from Chair Pizzo  
1:09:53 PM Jennifer Cook Pritt, Florida Police Chiefs Association waives in support  
1:09:56 PM Jorge Chamizo, Florida Association of Criminal Defense Lawyers waives in opposition  
1:10:03 PM Comments from Chair Pizzo  
1:10:09 PM Senator Brandes in debate  
1:11:29 PM Senator Taddeo in debate  
1:12:23 PM Chair Pizzo in debate  
1:12:57 PM Senator Perry in closure  
1:13:07 PM Roll call by CAA  
1:13:32 PM SB 1850 reported favorably  
1:13:45 PM Introduction of Tab 2, SB 640 by Chair Pizzo  
1:14:03 PM Explanation of SB 640, Prosecuting Children as Adults by Senator Powell  
1:14:51 PM Introduction of Amendment Barcode 656834 by Chair Pizzo  
1:14:55 PM Explanation of Amendment by Senator Powell  
1:15:51 PM Comments from Chair Pizzo  
1:16:11 PM Closure waived  
1:16:13 PM Amendment adopted  
1:16:16 PM Comments from Chair Pizzo  
1:16:24 PM Ingrid Delgado, Florida Conference of Catholic Bishops waives in support  
1:16:27 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in support

1:16:31 PM Kristellys Estanga waives in support  
1:16:34 PM Jacqueline Miner waives in support  
1:16:37 PM Carrie Boyd, SPLC Action Fund waives in support  
1:16:40 PM Nancy Daniels, Florida Public Defender Association waives in support  
1:16:44 PM Pamela Burch Fort, NAACP Florida State Conference waives in support  
1:16:49 PM Jorge Chamizo, Florida Association of Criminal Defense Lawyers waives in support  
1:16:54 PM Greg Black, R Street Institute waives in support  
1:16:56 PM Trish Neely, League Women Voters Florida waives in support  
1:17:03 PM Ida Eskamani, Florida Rising waives in support  
1:17:06 PM Barbara DeVane, FL NOW waives in support  
1:17:19 PM Comments from Chair Pizzo  
1:17:26 PM Senator Powell in closure  
1:17:32 PM Roll call by CAA  
1:17:55 PM CS/SB 640 reported favorably  
1:18:11 PM Chair passed to Senator Brandes  
1:18:21 PM Introduction of Tab 8, SB 1908 by Chair Brandes  
1:18:27 PM Explanation of SB 1908, Gain-time for Certain Women Prisoners by Senator Pizzo  
1:18:56 PM Introduction of Amendment Barcode 210990 by Chair Brandes  
1:19:00 PM Explanation of Amendment by Senator Pizzo  
1:19:36 PM Explanation of Amendment-to-Amendment Barcode 440122 by Senator Pizzo  
1:19:47 PM Introduction of Amendment-to-Amendment by Chair Brandes  
1:20:00 PM Amendment-to-Amendment adopted  
1:20:07 PM Comments from Chair Brandes  
1:20:28 PM Amendment adopted  
1:20:34 PM Comments from Chair Brandes  
1:20:39 PM Barbara DeVane, FL NOW waives in support  
1:20:43 PM Karen Woodall, Florida Center for Fiscal & Economic Policy waives in support  
1:20:54 PM Kristellys Estanga waives in support  
1:21:00 PM Jacqueline Miner waives in support  
1:21:03 PM Greg Black, R Street Institute waives in support  
1:21:08 PM Pamela Fort Burch, NAACP Florida State Conference waives in support  
1:21:13 PM Ida Eskamani, Florida Rising waives in support  
1:21:19 PM Nancy Daniels, Florida Public Defender Association waives in support  
1:21:23 PM Carrie Boyd, SPLC Action Fund waives in support  
1:21:31 PM Speaker Laurette Philipsen in support  
1:22:01 PM Comments from Chair Brandes  
1:22:26 PM Closure waived  
1:22:30 PM Roll call by CAA  
1:22:35 PM CS/SB 1908 reported favorably  
1:22:49 PM Introduction of Tab 9, SB 1970 by Chair Brandes  
1:22:59 PM Explanation of SB 1970, Law enforcement Reform by Senator Pizzo  
1:25:03 PM Introduction of Amendment Barcode 257714 by Chair Brandes  
1:25:12 PM Explanation of Amendment by Senator Pizzo  
1:25:55 PM Comments from Chair Brandes  
1:26:01 PM Amendment adopted  
1:26:08 PM Comments from Chair Brandes  
1:26:20 PM Ingrid Delgado, Florida Conference of Catholic Bishops waives in support  
1:26:25 PM Denise Rock, Florida Cares waives in support  
1:26:30 PM Catherine Ragonese waives in support  
1:26:35 PM Thomas Ragonese waives in support  
1:26:40 PM Laurette Philipsen waives in support  
1:26:43 PM Kristellys Estanda waives in support  
1:26:46 PM Jacqueline Miner waives in support  
1:26:49 PM Greg Black, R Street Institute waives in support  
1:26:52 PM Ida Eskamani, Florida Rising waives in support  
1:26:56 PM Barbara DeVane, FL NOW waives in support  
1:26:59 PM Pamela Burch Fort, NAACP Florida State Conference waives in support  
1:27:08 PM Jorge Chamizo, Florida Association of Criminal Defense Lawyers waives in support  
1:27:15 PM Nancy Daniels, Florida Public Defender Association waives in support  
1:27:20 PM Carrie Boyd, SPLC Action Fund waives in support  
1:27:36 PM Speaker Ted Manelli waives in support  
1:27:49 PM Comments from Chair Brandes

**1:28:08 PM** Senator Pizzo in closure  
**1:28:12 PM** Roll call by CAA  
**1:28:54 PM** CS/SB 1970 reported favorably  
**1:29:08 PM** Chair returned to Senator Pizzo  
**1:29:25 PM** Comments from Chair Pizzo  
**1:29:35 PM** Senator Brandes moves to give staff license to make technical and conforming changes to the Committee  
Substitutes. Without objection, show that adopted  
**1:29:46 PM** Senator Brandes moves to adjourn  
**1:29:53 PM** Meeting adjourned



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Ethics and Elections, *Chair*  
Appropriations Subcommittee on Criminal and Civil Justice  
Community Affairs  
Criminal Justice  
Health Policy  
Judiciary  
Rules

### JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

### SENATOR DENNIS BAXLEY

12th District

March 16, 2021

The Honorable Chair Jason Pizzo  
405 Senate Office Building  
Tallahassee, FL 32399

Dear Chairman Pizzo,

I would like to be excused from attending the Criminal Justice Committee meeting today, as I was in another committee presenting a bill.

Onward & Upward,

A handwritten signature in cursive script that reads "Dennis Baxley".

Senator Dennis Baxley  
Senate District 12

DKB/dd

### REPLY TO:

- ☐ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- ☐ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

Wilton Simpson  
President of the Senate

Aaron Bean  
President Pro Tempore